

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF TENNESSEE  
3 GREENEVILLE

4 UNITED STATES OF AMERICA, . DOCKET NO. CR-2-19-14  
5 GOVERNMENT, .  
6 VS. . GREENEVILLE, TN  
7 XIAORONG YOU, . APRIL 8, 2020  
8 DEFENDANT. . 1:45 P.M.  
9 . . . . .

10 TRANSCRIPT OF MOTION HEARING  
11 BEFORE THE HONORABLE J. RONNIE GREER  
12 UNITED STATES DISTRICT JUDGE

(DEFENDANT PRESENT BY VIDEO CONFERENCE)

13 APPEARANCES:

14 FOR THE GOVERNMENT: U.S. DEPARTMENT OF JUSTICE  
15 OFFICE OF U.S. ATTORNEY  
16 TIMOTHY CURTIS HARKER, AUSA  
800 MARKET STREET, SUITE 211  
KNOXVILLE, TN 37902  
17  
18 FOR THE GOVERNMENT U.S. DEPARTMENT OF JUSTICE  
VIA VIDEOCONFERENCE: OFFICE OF U.S. ATTORNEY  
J. DOUGLAS OVERBEY,  
19 UNITED STATES ATTORNEY  
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20 KNOXVILLE, TN 37902  
21  
22 FOR THE GOVERNMENT U.S. DEPARTMENT OF JUSTICE -  
VIA TELEPHONE: (CRIMINAL DIVISION)  
COMPUTER CRIME AND INTELLECTUAL  
23 PROPERTY SECTION  
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1 U.S. DEPARTMENT OF JUSTICE  
2 (NATIONAL SECURTY)  
3 NATIONAL SECURTY DIVISION,  
4 COUNTERTERRORISM SECTION  
5 NICHOLAS O. HUNTER, AUSA  
6 950 PENNSYLVANIA AVENUE N.W.  
7 WASHINGTON, DC 20530

8 FOR THE DEFENDANT: COLLINS SHIPLEY, PLLC  
9 COREY B. SHIPLEY, ESQ.  
10 128 SOUTH MAIN STREET, SUITE 102  
11 GREENEVILLE, TN 37743

12 FOR THE DEFENDANT JESSEE & JESSEE  
13 VIA VIDEOCONFERENCE: THOMAS C. JESSEE, ESQ.  
14 412 EAST UANAKA AVENUE  
15 JOHNSON CITY, TN 37601

16 COLLINS SHIPLEY, PLLC  
17 MICHAEL CURTIS COLLINS, ESQ.  
18 128 SOUTH MAIN STREET, SUITE 102  
19 GREENEVILLE, TN 37743

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COURT REPORTER: KAREN J. BRADLEY  
RPR-RMR  
U.S. COURTHOUSE  
220 WEST DEPOT STREET  
GREENEVILLE, TN 37743

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT  
PRODUCED BY COMPUTER.

1 (CALL TO ORDER OF THE COURT AT 1:45 P.M.)

2 THE COURT: GOOD AFTERNOON.

3 ATTORNEYS: GOOD AFTERNOON, YOUR HONOR.

4 THE COURT: ALL RIGHT. MS. HOPSON, WOULD YOU  
5 CALL THIS CASE, PLEASE.

6 THE CLERK: USA VERSUS XIAORONG YOU, CASE  
7 NUMBER CR-2-19-14.

8 THE COURT: ALL RIGHT. OF COURSE, MR. SHIPLEY  
9 AND MR. HARKER ARE PRESENT HERE IN THE COURTROOM.

10 IS THAT THE U.S. ATTORNEY? IT IS.

11 MR. OVERBEY: YES, IT IS, YOUR HONOR. GOOD  
12 AFTERNOON.

13 THE COURT: GOOD AFTERNOON.

14 THE UNITED STATES ATTORNEY, MR. OVERBEY, HAS  
15 JOINED US BY VIDEO. WE HAVE A COUPLE OF LAWYERS FOR THE  
16 GOVERNMENT ON THE TELEPHONE.

17 ALL RIGHT. COUNSEL, WE'LL TRY TO MOVE THROUGH  
18 THIS AS QUICKLY AS WE CAN. I HAVE TRIED NOT TO SCHEDULE  
19 HEARINGS DURING THIS PERIOD OF TIME, BUT THIS ONE SEEMED  
20 TO BE ONE WE COULDN'T AVOID A HEARING ON. THERE ARE TWO  
21 MATTERS, OF COURSE, PENDING BEFORE THE COURT. THE FIRST  
22 ONE IS A STATUS CONFERENCE, BASICALLY A SCHEDULING  
23 CONFERENCE TO TALK ABOUT THE RESCHEDULING OF THIS CANCELED  
24 TRIAL; AND, SECONDLY, TO REVISIT THE MOTION FOR BOND THAT  
25 WAS PREVIOUSLY FILED BY, BY THE DEFENDANT. I SHOULD ALSO

1 NOTE THAT THE DEFENDANT IS PRESENT BY VIDEO AS WELL.

2 MS. YOU, CAN YOU HEAR US OKAY?

3 THE DEFENDANT: YES. YES, YOUR HONOR.

4 THE COURT: OKAY. GOOD. IF AT ANY TIME YOU  
5 HAVE TROUBLE HEARING, LET ME KNOW, PLEASE.

6 THE DEFENDANT: THANK YOU, YOUR HONOR.

7 THE COURT: ALL RIGHT. COUNSEL, UNLESS THERE'S  
8 SOME REASON TO DO IT IN A DIFFERENT ORDER, I SUGGEST WE  
9 TAKE UP THE BOND MOTION FIRST AND THEN DEAL WITH THE  
10 SCHEDULING ISSUE, ALL RIGHT.

11 MR. SHIPLEY, I TAKE IT YOU'RE GOING TO ADDRESS  
12 THAT ISSUE. WHY DON'T YOU, SO THAT WE CAN MAINTAIN AS  
13 MUCH SEPARATION AS POSSIBLE, JUST REMAIN SEATED AND SPEAK  
14 INTO THAT MICROPHONE THERE, AND THEN MR. HARKER CAN DO THE  
15 SAME.

16 MR. SHIPLEY: VERY WELL, JUDGE.

17 THE COURT: AND, MR. SHIPLEY, I'LL JUST JUMP  
18 RIGHT IN BEFORE YOU START. LET ME TELL YOU WHAT MY  
19 CONCERN AT THIS POINT IS. AS THE RECORD REFLECTS, THE  
20 COURT ENTERED AN ORDER INITIALLY GRANTING THE DEFENDANT'S  
21 MOTION FOR BOND IN THIS CASE, BUT BECAUSE OF SOME CONCERNS  
22 THAT AROSE BASED ON INFORMATION RECEIVED FROM THE  
23 PROBATION OFFICE I WAS MORE CONCERNED THAT THERE HAD BEEN  
24 SOME MISINFORMATION, HOPEFULLY NOT MISREPRESENTATIONS,  
25 PROVIDED TO THE COURT IN THOSE PLEADINGS, SPECIFICALLY

1 WITH RESPECT TO THE POSSIBILITY OF THE DEFENDANT'S HUSBAND  
2 BEING A THIRD-PARTY CUSTODIAN AND THE REPRESENTATION TO  
3 THE COURT THAT MS. YOU WOULD LIVE IN PROPERTY OWNED BY HER  
4 IN JOHNSON CITY.

5 I HAVE SEEN YOUR SUPPLEMENTAL PLEADING, I'VE  
6 READ ALL THE PLEADINGS, BUT I'LL BE HAPPY TO HEAR FROM  
7 YOU, BUT MY CONCERN, FRANKLY, IS WITH, WITH THOSE ISSUES.

8 MR. SHIPLEY: YOUR HONOR, FIRST AND FOREMOST  
9 THAT'S WHY I DECIDED TO FILE THE SUPPLEMENTAL PLEADING  
10 YESTERDAY BECAUSE, FIRST AND FOREMOST, JUDGE, THERE WAS  
11 NEVER ANY, ANY INTENT. I HAVE TALKED WITH THE UNITED  
12 STATES PROBATION OFFICE ABOUT ANY POSSIBLE MISINFORMATION  
13 OR MISREPRESENTATION, JUDGE, THAT WAS NEVER, NEVER MY  
14 INTENT, NEVER MR. JESSEE'S INTENT TO DO SO.

15 JUDGE, AS YOU KNOW VERY WELL, WE'RE OPERATING  
16 ON CHANGING CIRCUMSTANCES EVERYDAY. WE WERE UNDER THE  
17 UNDERSTANDING THAT AT THE TIME WE FILED OUR ORIGINAL  
18 MOTION FOR RELEASE, PRETRIAL RELEASE, I SHOULD SAY,  
19 THAT -- WELL, I SHOULD SAY THIS, THAT HER HUSBAND, MR. SU  
20 {PH}, WE WEREN'T, WE WEREN'T SURE AT THAT TIME WHAT HIS  
21 JOB SITUATION WAS GOING TO BE. WE THINK NOW BASED ON WHAT  
22 WE KNOW THAT HE IS GOING TO BE AN ESSENTIAL EMPLOYEE.  
23 HE'S GOING TO GET TO KEEP HIS JOB. THAT IS REFLECTED IN  
24 THE SUPPLEMENT, JUDGE. SOUTH CAROLINA FINALLY FOLLOWED  
25 SUIT ON APRIL THE 6TH AND ISSUED THE STAY-AT-HOME ORDER.

1 THAT PROVIDES THE, THE ISSUE WHY, WHY WE, OR WHY I  
2 DISCUSSED THAT WITH THE PROBATION OFFICE ABOUT A POSSIBLE  
3 ALTERNATIVE.

4 JUDGE, IT WAS NEVER INTENDED FROM THE DEFENSE  
5 SIDE, WHEN MR. JESSEE AND I SAT IN MY OFFICE AND TALKED TO  
6 THE PROBATION OFFICE, THAT THIS WAS THE ONLY OPTION THAT  
7 WAS THERE. QUITE THE CONTRARY, JUDGE. WE WERE OPERATING  
8 UNDER THE ASSUMPTION THAT WE HAD THE HEARING SCHEDULED  
9 WITH JUDGE WYRICK AND JUDGE WYRICK WAS GOING TO SET THOSE  
10 CONDITIONS OF BOND, SET THOSE CONDITIONS OF RELEASE. IT  
11 WAS JUST A SUGGESTION THAT SHE COULD RESIDE IN ANDERSON,  
12 SOUTH CAROLINA AND BE SUBJECTED TO THE SAME BOND  
13 CONDITIONS.

14 JUDGE, AS I'VE NOTATED IN MY SUPPLEMENT THAT  
15 WAS ONE OF THE OPTIONS THAT I SAY THAT, YOU KNOW, WITH THE  
16 PROPER CONDITIONS I BELIEVE THAT SHE COULD BE -- THAT HER  
17 HUSBAND COULD ACT AS A THIRD-PARTY CUSTODIAN WITH THE  
18 PROPER HOME CONFINEMENT, ELECTRONIC MONITORING AS WE HAVE  
19 SEEN IN THE PAPERWORK HERE THAT WAS JUST PROVIDED TO US,  
20 EVEN THOUGH THERE IS A DISTANCE ISSUE, I UNDERSTAND THAT,  
21 JUDGE. WE'VE GOT 142 MILES FROM WHERE WE SIT RIGHT NOW TO  
22 WHERE HER HOME IS, BUT THAT WOULD --

23 THE COURT: LET ME GO AHEAD AND ADDRESS THAT AS  
24 WELL, MR. SHIPLEY. I'M NOT LIKELY TO APPROVE HER LIVING  
25 IN ANDERSON, SOUTH CAROLINA. AS YOU NOTED IN YOUR PLEA,

1 IT'S 142 MILES FROM GREENEVILLE. IT -- ALTHOUGH I HAVE  
2 FOUND THAT THE RISK OF FLIGHT HAS BEEN TEMPERED SOMEWHAT  
3 HERE BY THE CIRCUMSTANCES, I THINK THERE IS STILL SOME  
4 CONCERN ABOUT RISK OF FLIGHT; AND I, I GUESS I'D REPEAT  
5 WHAT I SAID TO THE PROBATION OFFICER EARLIER, I'M NOT  
6 INCLINED TO GIVE HER A THREE HOUR HEAD START.

7 MR. SHIPLEY: VERY WELL, JUDGE, AND THAT WOULD  
8 TAKE ME TO MY SECOND OPTION, JUDGE, THAT I WOULD PRESENT  
9 TO THE COURT.

10 THERE WAS SOME INFORMATION, AND I'M, I'M  
11 GETTING THIS INFORMATION, JUDGE, FROM MS., DR. -- FROM  
12 DR. YOU'S HUSBAND THAT I'M GETTING INFORMATION TO FROM  
13 WHAT THEIR CONVERSATIONS WERE, PROBATION, MEANING THEIR  
14 CONVERSATIONS WITH DR. YOU'S HUSBAND, SO I'M GETTING, YOU  
15 KNOW, TWO DIFFERENT VERSIONS -- OR I DON'T MEAN TWO  
16 DIFFERENT VERSIONS, BUT TWO VERSIONS, I SHOULD SAY, OF  
17 KIND OF WHAT'S GOING ON.

18 ALTERNATIVELY, JUDGE, IN MY SUPPLEMENT I  
19 SUGGESTED THAT SHE LIVE IN WASHINGTON COUNTY. I REREAD  
20 OUR MOTION THIS MORNING, AND SAYING THAT, JUDGE, I BELIEVE  
21 WE SAID IN OUR MOTION THAT SHE OWNS PROPERTY IN WASHINGTON  
22 COUNTY AND SHE CAN LIVE THERE. SHE DOES IN FACT HAVE A  
23 TOWNHOUSE OR A CONDO IN WASHINGTON COUNTY. THE TENANTS  
24 ARE THERE, THEY HAVE A LEASE THROUGH I BELIEVE IT'S  
25 NOVEMBER OF 2020. MR. JESSEE CONFIRMED WITHIN THE LAST

1 COUPLE OF DAYS THROUGH HER, THROUGH DR. YOU'S HUSBAND THAT  
2 IF THE COURT WERE TO REQUIRE THAT PLACE BE THE SPECIFIC  
3 LOCATION WHERE SHE IS TO RESIDE, THAT THERE IS A POSSI-  
4 BILITY THE TENANTS CAN MOVE OUT AND SEEK OTHER RESIDENCE.

5 THE COURT: WELL, I'M NOT SURE IT'S HELPFUL TO  
6 TALK IN TERMS OF POSSIBILITIES AT THIS POINT.

7 MR. SHIPLEY: SECONDLY, JUDGE, IF THE COURT  
8 DOESN'T -- THAT'S JUST AN OPTION, BUT, ALTERNATIVELY,  
9 JUDGE, THERE IS A SET OF APARTMENTS THAT I'M SURE THE  
10 COURT IS VERY FAMILIAR WITH THAT'S LITERALLY .5 MILES AWAY  
11 FROM THE FEDERAL BUREAU OF INVESTIGATION, IT'S CALLED THE  
12 HAVEN AT KNOB CREEK.

13 JUDGE, WE, WE CONFIRMED RECENTLY, AND THAT HAS  
14 BEEN CONFIRMED VIA E-MAIL, THAT THIS APARTMENT COMPLEX  
15 LOCATED AT 1185 WEST MOUNTAIN VIEW ROAD, JOHNSON CITY,  
16 TENNESSEE, AND, LIKE I SAID, THAT IT'S WITHIN .5 MILES OF  
17 DRIVING FROM THE FEDERAL BUREAU OF INVESTIGATION OFF KNOB  
18 CREEK ROAD, THEY DO HAVE LODGING, AND THEY ARE WILLING TO  
19 ACCEPT DR. YOU TO BE A PLACE OF POSSIBLE RESIDENCE.

20 JUDGE, I THINK THAT BEING, BEING THE LOCATION  
21 IT IS, THAT WOULD ALLEVIATE THE COURT'S CONCERN ABOUT IT  
22 BEING IN EAST TENNESSEE. IT ALSO PUTS HER IN A POSITION  
23 THAT SHE IS IN, IF SHE IS CONFINED, WHICH I'M ASSUMING SHE  
24 WILL BE IF THE COURT SO CHOOSES TO RELEASE HER TO BE AT  
25 HOME, HOUSE ARREST, IF YOU WILL, THAT WOULD ALLOW HER EASY



1 ACCESS TO THE FEDERAL BUREAU OF INVESTIGATION IF WE HAVE  
2 TO GO LOOK AT -- IF WE HAVE TO GO VIEW EVIDENCE THERE OR  
3 JUST IN THE LOCALE BEING THAT CLOSE TO THE FEDERAL BUREAU  
4 OF INVESTIGATION. JUDGE, THAT IS MORE FOR SURE, AND I  
5 CAN, AND I CAN PROVIDE THAT CONFIRMATION, JUDGE, THAT  
6 THERE IS ACTUAL LODGING FOR HER TO HAVE THERE. THAT TAKES  
7 UP THE CONCERN OF SPECULATING WHETHER OR NOT THE TENANTS  
8 THAT ARE THERE UNDER CONTRACT RIGHT NOW TO BE THERE UNTIL  
9 NOVEMBER 2020 TO VACATE.

10 THIRD, JUDGE, MY --

11 THE COURT: MR. SHIPLEY, THAT GOES RIGHT TO THE  
12 HEART OF MY CONCERN ABOUT THE REPRESENTATIONS THAT WERE  
13 MADE TO THE COURT. WHETHER YOU KNEW AT THE TIME YOU FILED  
14 THE PLEADING OR NOT THAT THAT PROPERTY WAS LEASED, YOU  
15 CLEARLY WERE PUT ON NOTICE OF IT BY THE TIME THE GOVERN-  
16 MENT'S RESPONSE WAS FILED. MR. HARKER NOTED THE FACT THAT  
17 THAT PROPERTY WAS UNDER LEASE IN A FOOTNOTE IN HIS  
18 PLEADING, AND, YET, I HEARD NOTHING FURTHER AND ONLY  
19 LEARNED FROM THE PROBATION OFFICE JUST BEFORE JUDGE  
20 WYRICK'S HEARING THAT THAT IN FACT WAS PROPERTY THAT WAS  
21 NOT AVAILABLE TO HER. THAT -- I'M NOT SURE HOW THAT  
22 MISUNDERSTANDING ARISES; BUT I TAKE IT AT THIS POINT THAT  
23 YOU ACKNOWLEDGE THAT THE PROPERTY SHE OWNS IN WASHINGTON  
24 COUNTY IS NOT CURRENTLY AVAILABLE FOR HER TO RESIDE THERE  
25 BECAUSE IT IS LEASED TO THIRD PARTIES?

1           MR. SHIPLEY: JUDGE, THE SHORT ANSWER TO THAT  
2 QUESTION IS I ACKNOWLEDGE THAT IT IS LEASED, AND I NEVER  
3 INTENDED TO, IN ANY PLEADING THAT WE FILED WITH THE COURT  
4 TO COME ACROSS AND SAY THAT, TRYING TO HIDE THAT FROM THE  
5 COURT, SAYING THAT IT NOT AVAILABLE. MY UNDERSTANDING,  
6 JUDGE, IS THAT AT ANY TIME, BASED ON WHAT I HAVE BEEN TOLD  
7 BY DR. YOU'S HUSBAND, THAT IT CAN -- THAT THE PARTIES  
8 THERE ARE -- THERE ARE OPTIONS, JUDGE, FOR THAT PARTY  
9 THERE TO VACATE THE PREMISES AND SEEK OTHER, OTHER  
10 RESIDENCES, JUDGE, LIKE AND, AND --

11           THE COURT: IS THERE A PROVISION IN THE LEASE  
12 THAT ALLOWS THE RIGHT FOR YOU TO SIMPLY CANCEL THAT LEASE?

13           MR. SHIPLEY: JUDGE, AS FAR AS I'M CONCERNED, I  
14 DON'T KNOW THAT THERE IS A UNILATERAL PROVISION IN THAT  
15 LEASE THAT WOULD ALLOW HER TO CANCEL THAT LEASE, I'VE JUST  
16 BEEN TOLD THAT THAT'S A POSSIBILITY, JUDGE; AND I UNDER-  
17 STAND WHERE THE COURT IS COMING FROM, BUT IN OUR INITIAL  
18 MOTION THE WAY IT WAS WRITTEN WHEN IT SAYS THAT SHE OWNS  
19 PROPERTY IN WASHINGTON COUNTY AND CAN RESIDE THERE, IT'S,  
20 IT WAS ALWAYS A POSSIBILITY, JUDGE, FOR HER TO RESIDE  
21 THERE AT THAT PLACE, BUT ALSO TO RESIDE IN WASHINGTON  
22 COUNTY. WE THOUGHT THAT'S SOMETHING THAT THE COURT WOULD  
23 REQUIRE HER TO DO. WE CAN ABSOLUTELY FIND PROPER  
24 ACCOMMODATIONS.

25           OTHERWISE, JUDGE, WE HAVE, WE HAVE ALSO IN-

1 QUIRED SINCE, SINCE THIS HAS BEEN GOING ON, WE'VE INQUIRED  
2 THROUGH MULTIPLE -- WELL, NOT MULTIPLE, BUT A SINGLE  
3 REALTOR IN THE WASHINGTON COUNTY AREA THAT BASICALLY  
4 SHOWED US THAT THERE ARE OTHER ACCOMMODATIONS, AND  
5 MR. JESSEE AND I HAVE FOLLOWED UP ON THAT AND CONFIRMED  
6 THAT A PLACE WITHIN A HALF A MILE OF THE FBI IS IN FACT  
7 AVAILABLE. SO, JUDGE, IT WAS NEVER --

8 THE COURT: WHICH ONE OF THOSE COMPLEXES ON  
9 KNOB CREEK IS THE HAVEN? THERE -- I CAN THINK OF RIGHT  
10 NOW AT LEAST THREE OF THOSE COMPLEXES RIGHT THERE ON KNOB  
11 CREEK ROAD.

12 MR. SHIPLEY: JUDGE, IF I'M NOT MISTAKEN --

13 THE COURT: IS THAT THE GATED COMMUNITY OR --

14 MR. SHIPLEY: I THINK SO, JUDGE.

15 MR. JESSEE: YES.

16 MR. SHIPLEY: THE REASON I SAY THAT IS, I THINK  
17 IT IS, AND MR. JESSEE, I KNOW HE'S TALKED TO ME ABOUT  
18 THAT, HE CAN PROBABLY SPEAK TO THAT BECAUSE I THINK HE'S  
19 VERY FAMILIAR WITH THE HAVEN; BUT I THINK, JUDGE, THAT IS  
20 THE -- IF YOU'RE TRAVELING TO JOHNSON CITY AND YOU TAKE  
21 THE BACK ROAD ON KNOB -- IF YOU TAKE KNOB CREEK ROAD  
22 INSTEAD OF TAKING -- YOU WOULD TAKE A LEFT ONTO MOUNTAIN  
23 VIEW IS THE APARTMENT, IT'S THE CORPORATE QUARTERS, AND I  
24 THINK THAT'S WHAT THEY SPECIALIZE IN IS FOR PEOPLE THAT  
25 ARE COMING THERE TO STAY. THEY'RE FULLY FURNISHED

1 APARTMENTS, AND THAT'S WHERE WE HAVE CONFIRMED THAT THERE  
2 IS ACTUALLY A PLACE FOR HER TO STAY.

3 THE COURT: ALL RIGHT. THAT DOESN'T --  
4 MR. JESSEE, YOU MIGHT WANT TO JUMP IN. THAT DOESN'T SOUND  
5 LIKE THE GATED COMMUNITY, THAT SOUNDS MORE LIKE THE ONE  
6 RIGHT THERE BEHIND THE OLD SHOPPING CENTER.

7 MR. JESSEE: YOUR HONOR, IT IS THE HAVEN, IT IS  
8 THE ONE YOU'RE TALKING ABOUT, IT IS THE GATED COMMUNITY.

9 THE COURT: IT IS THE GATED COMMUNITY.

10 MR. JESSEE: CORPORATE QUARTERS OF KNOXVILLE  
11 LEASES PERMANENTLY 20 OF THOSE FACILITIES. I HAPPEN TO  
12 HAVE LIVED IN ONE FOR SIX MONTHS ABOUT SIX YEARS AGO. I  
13 CONFIRMED WITH THEM, THEY'RE HOLDING A ONE BEDROOM. THEY  
14 CONTROL THOSE UNITS, BUT IT IS IN THE HAVEN, WHICH IS  
15 THOSE MULTI-COLORED SECTIONS WITH THE GATE RIGHT THERE, ON  
16 MOUNTAIN VIEW ROAD YOU'D COME DOWN TO THE CORNER AND YOU  
17 EITHER GO UNDER THE OVERPASS IF YOU GO STRAIGHT OR THE  
18 RAILROAD OR YOU TURN LEFT AND GO DOWN TO THE FBI OFFICE.  
19 THE, THE UNIT IS AVAILABLE NOW. I TALKED TO THEM AGAIN  
20 THIS MORNING. IT'S FULLY FURNISHED. SHE ONLY HAS TO SHOW  
21 UP WITH HER CLOTHES AND TOILETRIES.

22 THE COURT: ALL RIGHT.

23 MR. JESSEE: AND I JUST AT RANDOM ASKED THEM  
24 WOULD THEY BE AVAILABLE FOR AT LEAST FOUR TO SIX MONTHS  
25 DEPENDING ON WHEN YOUR HONOR WAS GOING TO SET THE TRIAL,

1 AND THEY SAID IT WAS, AND WE JUST HAVE TO GIVE THEM NOTICE  
2 TO CLEAN TO MOVE IN.

3 THE COURT: ALL RIGHT.

4 ALL RIGHT. MR. SHIPLEY, ANYTHING ELSE ON THAT  
5 ISSUE THEN?

6 AND, BY THE WAY, I JUST PULLED UP YOUR MOTION.  
7 HERE'S WHAT IT SAYS, IT SAYS, "DR. YOU HAS PROPERTY IN  
8 WASHINGTON COUNTY, TENNESSEE WHERE SHE WOULD STAY IN THE  
9 EVENT OF HER RELEASE." THAT'S A LITTLE DIFFERENT THAN  
10 SAYING THAT SHE CAN STAY THERE OR SHE MIGHT STAY THERE OR  
11 SHE COULD STAY THERE, IT SAYS THAT IS WHERE SHE WOULD  
12 STAY. THAT WAS MY CONCERN. AND THAT WAS NEVER CORRECTED  
13 AFTER THE FILING OF THE GOVERNMENT'S PLEADING, NOR IN FACT  
14 WAS IT CORRECTED UNTIL YESTERDAY IN THE RECORD.

15 MR. SHIPLEY: JUDGE, I'M --

16 THE COURT: AND THE VERY NEXT SENTENCE  
17 INDICATES THAT DR. YOU'S HUSBAND IS CURRENTLY EMPLOYED IN  
18 GREENEVILLE, SOUTH CAROLINA AND COULD STAY WITH HER IN THE  
19 EVENT OF HER RELEASE. THAT DOES NOT APPEAR TO HAVE NECES-  
20 SARILY BEEN THE CASE EITHER, ALTHOUGH I'LL ACKNOWLEDGE  
21 THAT THE STAY-AT-HOME ORDER WAS NOT ENTERED IN SOUTH  
22 CAROLINA UNTIL JUST A FEW DAYS AGO.

23 MR. JESSEE: YOUR HONOR, NOT TO INTERRUPT --

24 THE COURT: THAT'S WHAT I SEE AS TROUBLING.

25 MR. JESSEE: YOUR HONOR --

1 THE COURT: GO AHEAD, MR. JESSEE.

2 MR. JESSEE: -- NOT TO INTERRUPT, IT IS HER  
3 HUSBAND'S INTENTION, HAVING TALKED TO HIM, THAT IF HE HAS  
4 TO PHYSICALLY STAY WITH HER, HE HAD -- IT'S A TWO-HOUR  
5 DRIVE TO HIS OFFICE IN SOUTH CAROLINA, HE WOULD JUST HAVE  
6 TO MAKE THE DRIVE EVERYDAY AND RETURN, AND HE UNDERSTANDS  
7 THAT.

8 THE COURT: ALL RIGHT.

9 ALL RIGHT. ANYTHING ELSE ON THE MOTION?

10 MR. SHIPLEY: AND, JUDGE, JUST AGAIN ON THE  
11 RECORD, THAT'S WHY THAT WE MADE SURE TO FILE THE  
12 SUPPLEMENT YESTERDAY. AGAIN, IT WAS NEVER ANY INTENT TO  
13 MISLEAD THE COURT, MISLEAD THE PROBATION OFFICE. IT WAS  
14 FROM THE TIME, I THINK ON MARCH THE 27TH, JUDGE -- AND I  
15 APOLOGIZE, I'M LOOKING AT THE COURT'S ORDER HERE, ORDER ON  
16 RELEASE WAS MARCH THE 25TH, AND I SPOKE TO PROBATION, AND  
17 MR. JESSEE AND I IN MY OFFICE SPOKE TO PROBATION ON MARCH  
18 THE 27TH, AND THAT'S JUST WHERE WE WERE SUGGESTING THAT  
19 THERE COULD BE ALTERNATIVES, AND IT WAS NEVER A -- I DON'T  
20 KNOW HOW TO SAY IT, JUDGE, OTHER THAN IT WAS NEVER -- TO  
21 US IT WAS SOMETHING THAT WE WERE TRYING TO PROVIDE OPTIONS  
22 TO WHERE SHE COULD STAY, AND IT WAS NEVER INTENDED TO --  
23 AND I THOUGHT THAT WAS SOMETHING, JUDGE, BASED ON  
24 PROBATION'S REPRESENTATIONS TO THE COURT SUBSEQUENTLY, IF  
25 THAT'S SOMETHING THAT DIDN'T WORK, WE COULD GO FROM THERE;

1 BUT, JUDGE, THERE WAS NEVER ANY INTENT IN HERE TO MISLEAD  
2 THE COURT, AND THAT'S WHY I FELT IT NECESSARY YESTERDAY  
3 BEFORE WE GOT IN HERE BASED ON THE COURT'S MOST RECENT  
4 ORDER REGARDING THE MISREPRESENTATIONS OR THE POTENTIAL  
5 MISREPRESENTATIONS. IT WAS NEVER AN INTENTIONAL  
6 MISREPRESENTATION. NOW, WAS IT A MISTAKE? WAS IT WORDED  
7 IMPROPERLY? YES, JUDGE, AND I'LL ACKNOWLEDGE THAT IT WAS  
8 WORDED IMPROPERLY, BUT IT WAS NEVER ANY TYPE OF  
9 INTENTIONAL, INTENTIONAL ACT TO MISLEAD THE COURT OR  
10 PROBATION BECAUSE FINDING A SUITABLE RESIDENCE FOR HER,  
11 FOR DR. YOU, PENDING HER POTENTIAL RELEASE, I'M ASSUMING  
12 WOULD BE SOMETHING THAT PROBATION WOULD HAVE TO SAY THIS  
13 IS ACCEPTABLE AND THIS WOULD BE ACCEPTABLE TO JUDGE WYRICK  
14 AND ALSO ULTIMATELY ACCEPTABLE TO YOU, YOUR HONOR, SO.  
15 JUST, JUST FOR THAT, JUDGE, THAT'S, JUST WANTED TO MAKE  
16 SURE THAT'S WHY WE FILED WHAT WE WANTED TO FILE, AND WHEN  
17 WE KNEW SOMETHING DEFINITELY TO FILE, INSTEAD OF MAKING  
18 MULTIPLE FILINGS, THAT'S WHAT WE DECIDED TO DO YESTERDAY,  
19 JUDGE.

20 THE COURT: ALL RIGHT. ONE OTHER QUESTION  
21 BEFORE I HEAR FROM MR. HARKER. MR. SHIPLEY, MR. JESSEE,  
22 ARE THERE ANY OF THE CONDITIONS PROPOSED BY THE GOVERNMENT  
23 THAT YOU WOULD RESIST?

24 MR. SHIPLEY: JUDGE, I'LL GO AHEAD AND SPEAK TO  
25 THAT, AND NOT TO JUMP IN FRONT OF MR. JESSEE, AND -- BUT

1 IT KIND OF GOES BACK TO MY, WITHIN MY SUPPLEMENT, JUDGE,  
2 TO THE THIRD OPTION. JUDGE, WE'RE NOT HERE IN A POSITION  
3 TO REALLY ARGUE WITH ANY TYPE OF CONDITION THAT WOULD BE  
4 SET BY THE COURT. AS I SAID, JUDGE, AS THE THIRD OPTION  
5 IN THE SUPPLEMENT, IF THE COURT REQUIRED HER TO STAY IN  
6 GREENEVILLE, TENNESSEE WITHIN ROCK-THROWING DISTANCE OF  
7 THE COURT, THAT'S SOMETHING THAT WE WOULD TRY TO MAKE  
8 HAPPEN AND DO IT EXPEDITIOUSLY, JUDGE.

9 SO AS FAR AS I'M CONCERNED, AND I'LL DEFER TO  
10 MR. JESSEE TO MAKE A SUPPLEMENT TO WHAT I'M SAYING, BUT I  
11 DON'T THINK WE HAVE ANY OBJECTION TO WHATEVER CONDITIONS  
12 THAT THE COURT WANTS TO PUT ON DR. YOU BECAUSE AS LONG AS  
13 SHE IS COMMUNICATING TO THE UNITED STATES PROBATION  
14 OFFICE, IF SHE HAS TO -- IF SHE IS TRAVELING TO MY OFFICE  
15 OR IF SHE IS TRAVELING TO MR. JESSEE'S OFFICE IN JOHNSON  
16 CITY, THAT'S THE ONLY PLACE THAT SHE'LL BE GOING. SO,  
17 JUDGE, AS FAR AS I'M CONCERNED WE DON'T HAVE ANY  
18 OBJECTIONS TO ANY TYPE OF RESTRICTIVE OR TO THE UTMOST  
19 RESTRICTIVE CONDITIONS THAT THE COURT WOULD SET.

20 THE COURT: ALL RIGHT.

21 ALL RIGHT. THEN, MR. HARKER, I'LL HEAR FROM  
22 YOU ON THIS AS WELL. KEEP IN MIND THAT I HAVE READ YOUR  
23 PLEADINGS AND YOUR SUPPLEMENTAL PLEADINGS, AND I GUESS I'D  
24 LIKE FOR YOU TO ADDRESS ONE QUESTION FOR ME AT THE BEGIN-  
25 NING. I'VE SEEN THE ATTORNEY GENERAL'S MEMO OF APRIL 6,



1 THE U.S. ATTORNEY'S, IN WHICH HE INDICATES THAT THE  
2 CONCERN ABOUT COVID-19 IS, IN THE DEPARTMENT'S VIEW, NOW A  
3 SIGNIFICANT FACTOR IN BOND DECISIONS. I WOULD LIKE FOR  
4 YOU TO TELL ME IN LIGHT OF THAT DIRECTIVE FROM THE  
5 ATTORNEY GENERAL WHETHER YOUR POSITION HAS CHANGED ANY.

6 MR. HARKER: THANK YOU, YOUR HONOR.

7 AND I HAVE READ THAT DIRECTIVE, AND THE  
8 GOVERNMENT'S POSITION HAS NOT CHANGED IN THIS PARTICULAR  
9 CASE. AND IN THAT DIRECTIVE ONE OF THE FACTORS THAT THE  
10 GOVERNMENT IS STILL TO CONSIDER IS FLIGHT RISK, AND THE  
11 GOVERNMENT'S POSITION IS THAT TODAY VERSUS A YEAR AGO IT'S  
12 NOT THE CASE THAT THE RISK OF FLIGHT HAS BEEN MITIGATED,  
13 IT'S ACTUALLY THE CASE THAT THE RISK OF FLIGHT HAS  
14 INCREASED; AND SO I'D LIKE TO ADDRESS A FEW -- I'D LIKE TO  
15 PROVIDE THE COURT WITH A FEW EXPLANATIONS AS TO WHY, BUT  
16 I'D ALSO LIKE TO DIGRESS BRIEFLY TO ADDRESS THE  
17 CORONAVIRUS CONCERN.

18 THE COURT: ALL RIGHT.

19 MR. HARKER: AND IF I MAY, I NOTE -- I NOTE  
20 THAT THE DEFENSE -- WHERE SHOULD THE COURT LOOK TO  
21 DETERMINE WHAT TYPES OF CONCERNS IT HAS ABOUT THE  
22 CORONAVIRUS, IN PARTICULAR AT THE WASHINGTON COUNTY  
23 DETENTION CENTER; AND I'LL NOTE THAT THE DEFENSE MOTION IS  
24 THE FIRST PLACE TO LOOK, AND THEY DON'T ACTUALLY MAKE AN  
25 ARGUMENT THAT THE DEFENDANT IS SUSCEPTIBLE TO THIS ILLNESS

1 MORE THAN ANY ORDINARY PERSON, THAT SHE HAS ANY PARTICULAR  
2 MEDICAL CONDITION THAT WOULD CAUSE HER TO BE AT A  
3 HEIGHTENED RISK, SHE IS NOT ELDERLY. AND AS OF EARLIER  
4 THIS WEEK, I CONFIRMED WITH A REPRESENTATIVE OF THE  
5 WASHINGTON COUNTY DETENTION CENTER, THE REGIONAL DIRECTOR  
6 OF NURSING, THAT THERE ARE AS OF EARLIER THIS WEEK NO  
7 CASES OF THE CORONAVIRUS AT THE WASHINGTON COUNTY  
8 DETENTION CENTER.

9 ON TOP OF THAT I CONFIRMED WITH MS. HEATHER  
10 TAYLOR, WHO IS THE REGIONAL DIRECTOR OF NURSING FOR  
11 QUALITY CORRECTIONAL HEALTH CARE, THAT THERE IS IN FACT IN  
12 PLACE THERE A WELL ARTICULATED PLAN AS TO EXACTLY WHAT THE  
13 MEDICAL STAFF THERE WILL DO IN THE EVENT OF A CORONAVIRUS  
14 INFECTION; AND I CAN PROVIDE FOR THE COURT MS. TAYLOR'S  
15 E-MAIL TO ME WITH THE ATTACHMENTS IF THE COURT WOULD LIKE  
16 TO SEE THAT. THE POINT IS AT THIS MOMENT WASHINGTON  
17 COUNTY IS EXTREMELY WELL PREPARED, PERHAPS BETTER PREPARED  
18 THAN SOME OF THE LOCAL COMMUNITIES INTO WHICH THE DEFEN-  
19 DANT WOULD BE RELEASED TO HANDLE A CORONAVIRUS.

20 THE COURT: YOU'RE SUGGESTING THAT THE RISK OF  
21 CONTRACTING THE VIRUS IS LESS IN THE JAIL THAN IT IS IN  
22 THE COMMUNITY?

23 MR. HARKER: NO, YOUR HONOR, I'M NOT QUALIFIED  
24 TO MAKE THAT SORT OF STATEMENT. WHAT I AM SAYING RIGHT  
25 NOW IS THE DEFENSE HAS NOT ARGUED THAT THE DEFENDANT IS

1     LIKELY TO BE INFECTED.  THERE'S NO EVIDENCE THAT SHE'S  
2     LIKELY TO BE INFECTED IN THE JAIL, AND --

3                 THE COURT:  BUT DOESN'T COMMON SENSE TELL US  
4     THAT CONFINING A PERSON UNDER THOSE CIRCUMSTANCES WITH  
5     HUNDREDS OF OTHER PEOPLE WHO HAVE CERTAINLY THE POTENTIAL  
6     OF SPREADING THE DISEASE IS GREATER THAN WOULD BE IN THE  
7     COMMUNITY?

8                 MR. HARKER:  WELL, YOUR HONOR, I COULD READ TO  
9     YOU WHAT -- I RAISED THOSE EXACT CONCERNS WITH MS. TAYLOR,  
10    AND I CAN READ TO THE COURT WHAT SHE SAID IN PART IN  
11    RESPONSE; BUT TO SUMMARIZE THOSE POINTS, THEY SCREEN EVERY  
12    VISITOR, THEY TAKE TEMPERATURES.  IF A PERSON WERE TO TEST  
13    POSITIVE, THEY PLACE THAT PERSON IN ISOLATION FOR AS LONG  
14    AS NECESSARY, IN EFFECT IN QUARANTINE.  I WOULD SUBMIT  
15    THAT IN SOME CASES THE PRISON MIGHT ACTUALLY BE BETTER AT  
16    QUARANTINING A PERSON THAN AT ANOTHER PLACE, BUT I'M NOT  
17    SUGGESTING THAT THE RISK OF INFECTION IS GREATER OR LESS;  
18    AND I UNDERSTAND THE ANECDOTAL SENSE THAT IT IS MORE  
19    LIKELY THAT YOU MIGHT BE INFECTED, BUT THE QUESTION BEFORE  
20    THE COURT IS IS THE DEFENDANT A RISK OF NONAPPEARANCE, NOT  
21    WHETHER OR NOT SHE'S LIKELY TO BE INFECTED; AND I ADMIT  
22    THAT IF THE FACTORS WERE TO CHANGE, IF THERE WERE AN  
23    OUTBREAK OF THIS ILLNESS WITHIN WASHINGTON COUNTY, THEN  
24    PERHAPS THE ISSUE WOULD HAVE TO BE REVISITED.

25                THE COURT:  BUT MAYBE YOU AND I ARE READING THE

1 ATTORNEY GENERAL'S MEMO DIFFERENTLY. IT SEEMS TO ME THAT  
2 WHAT HE IS DIRECTING THAT YOU CONSIDER IS THE RISK OF  
3 CONTRACTING THE DISEASE, NOT THE RISK OF DYING FROM IT.

4 MR. HARKER: YES, SIR.

5 THE COURT: AND THE RISK DOESN'T NECESSARILY  
6 CORRELATE TO THE MINUTE-BY-MINUTE CONDITIONS WITHIN THE  
7 JAIL. IN OTHER WORDS, THE RISK HAS NOTHING TO DO AT THIS  
8 POINT WITH WHETHER THERE HAVE OR HAVE NOT BEEN CASES. IF  
9 THERE HAVE BEEN CASES, I WOULD ASSUME THERE IS A  
10 HEIGHTENED RISK. NEVERTHELESS, THE RISK OF AN INMATE  
11 CONTRACTING THE VIRUS IS, IS PRESENT IN A JAIL, CERTAINLY,  
12 WOULDN'T YOU AGREE WITH THAT?

13 MR. HARKER: YES, YOUR HONOR, JUST LIKE IT'S  
14 PRESENT IN THE POPULATION; AND IT MAY IN FACT BE HIGHER,  
15 AND WE ARE CONSIDERING THAT.

16 THE COURT: ALL RIGHT. OKAY.

17 MR. HARKER: AND I WOULD ADD, YOUR HONOR, THAT  
18 ON THE OTHER SIDE OF THAT, LET'S ASSUME FOR THE SAKE OF  
19 ARGUMENT THAT OTHER THAN THE CORONAVIRUS ALL OTHER THINGS  
20 ARE EQUAL OR AT LEAST UNCHANGED FROM WHERE THEY WERE A  
21 YEAR AGO, I THINK THE GOVERNMENT WOULD ADD TO THIS POINT,  
22 THERE ARE SEVERAL FACTORS THAT ARE ALSO WEIGHING IN FAVOR  
23 OF A HIGHER RISK OF FLIGHT. ONE IS THAT THE REPRESENTATIONS  
24 IN THE DEFENSE FILING, EVEN THOUGH THE DEFENSE  
25 COUNSEL THEMSELVES UNDERSTOOD THAT THOSE REPRESENTATIONS

1 WERE TRUE AT THE TIME THEY MADE THEM, THE DEFENDANT AND  
2 THE DEFENDANT'S HUSBAND KNEW THAT THEY WERE NOT TRUE. THE  
3 DEFENDANT KNEW THAT HER PROPERTY WAS LEASED THROUGH  
4 NOVEMBER 2020; AND THE GOVERNMENT ALSO HAS A COPY OF THAT  
5 LEASE AGREEMENT HERE IF THE COURT WOULD LIKE TO ACQUIRE A  
6 COPY OF THAT. IN ADDITION, HER HUSBAND KNEW THAT HE WAS  
7 UNLIKELY TO BE ABLE TO TRAVEL FROM EAST TENNESSEE TO HIS  
8 JOB IN SOUTH CAROLINA WHETHER OR NOT A STAY-AT-HOME ORDER  
9 WAS IN PLACE. HE AND SHE BOTH KNEW THAT THOSE THINGS WERE  
10 FALSE AT THE TIME THAT THEIR REPRESENTATIVES, COUNSEL FOR  
11 THE DEFENDANT, FILED THE MOTION. IN OTHER WORDS, THE  
12 DEFENDANT WAS WILLING TO CAUSE FALSE STATEMENTS TO BE MADE  
13 TO THIS COURT TO INDUCE THIS COURT TO RELEASE THE  
14 DEFENDANT.

15 AND THEN FURTHER I WOULD POINT OUT, I'VE OF  
16 COURSE READ THE COURT'S ORDER THAT TALKS ABOUT THE RISK OF  
17 FLIGHT TO CHINA, AND LET'S CONCEDE, LET THE GOVERNMENT  
18 CONCEDE FOR THE SAKE OF ARGUMENT THAT THE RISK OF FLIGHT  
19 TO CHINA TODAY IS LOWER THAN IT WAS SAY FOUR MONTHS AGO,  
20 IT WOULD BE HARDER TO GET DIRECTLY TO CHINA, BUT THE  
21 QUESTION UNDER 3162 IS WHETHER OR NOT THERE'S A RISK OF  
22 NONAPPEARANCE. THE DEFENDANT DOESN'T NEED TO BE IN CHINA  
23 IN ORDER TO BE A FUGITIVE, SHE COULD HIDE IN THE WOODS OF  
24 NORTH CAROLINA, THAT WOULD BE SUFFICIENT, AT LEAST FOR THE  
25 TIME BEING.

1           ALSO IN PREPARATION FOR THIS HEARING, YOUR  
2 HONOR, I USED PUBLIC WEBSITES TO DETERMINE WHETHER OR NOT  
3 A FLIGHT COULD BE OBTAINED FROM QUEBEC AND MEXICO CITY, IN  
4 FACT, AN FBI AGENT DID THIS ON MY BEHALF, AND FLIGHTS ARE  
5 AVAILABLE IN THE NEAR FUTURE FROM MEXICO CITY AND QUEBEC  
6 TO CHINA. NOW, I DON'T KNOW WHAT HAPPENS WHEN THE PEOPLE  
7 LAND ON A TARMAC IN BEIJING, I DON'T KNOW WHETHER OR NOT  
8 THE CHINESE AUTHORITIES WOULD LET ANY PARTICULAR PASSENGER  
9 IN, BUT I SUSPECT THEY WOULD LET THIS PARTICULAR PASSENGER  
10 IN. SO THE GOVERNMENT'S POSITION IS THE DEFENDANT IS AN  
11 EXTRAORDINARY FLIGHT RISK, EVEN IF THAT RISK IS SOMEWHAT  
12 MITIGATED BY THE INCREASED DIFFICULTY OF FINDING A PLANE  
13 TICKET TO CHINA, IT DOESN'T MEAN THAT SHE'S STILL NOT A  
14 HIGH FLIGHT RISK, AND WE THINK THAT THAT RISK OFFSETS THE  
15 RISK, THE INCREASED RISK OF INFECTION FROM A DETENTION  
16 FACILITY.

17           THE COURT: SO YOU'RE SUGGESTING THAT SHE WOULD  
18 TRAVEL ILLEGALLY TO MEXICO OR TO CANADA AND OBTAIN A PLANE  
19 TICKET HOW WITHOUT A PASSPORT?

20           MR. HARKER: WELL, YOUR HONOR, I WOULD POINT  
21 OUT AGAIN THAT SHE NEED NOT GO TO CANADA OR MEXICO, SHE  
22 COULD ONLY GO TO NORTH CAROLINA AND HIDE IN THE WOODS.

23           THE COURT: WELL, BUT YOU CAN SPECULATE THAT  
24 ABOUT ANY DEFENDANT.

25           MR. HARKER: RIGHT. WE'VE ESTABLISHED ALREADY,

1 YOUR HONOR, THE MOTIVES WHY THE DEFENDANT WOULD FLEE, AND  
2 THOSE MOTIVES ARE STILL APPLICABLE. IF ANYTHING, THE  
3 DEFENDANT IS NOW AWARE OF THE STRENGTH OF THE GOVERNMENT'S  
4 EVIDENCE AGAINST HER. IT'S BEEN A FULL YEAR, SHE HAS HAD  
5 AMPLE TIME TO REVIEW THE DISCOVERY, AND SHE UNDERSTANDS  
6 THAT CONVICTION IS -- THERE'S A HIGH LIKELIHOOD OF  
7 CONVICTION, THE EVIDENCE IS VERY STRONG; SO WHETHER HER  
8 DIFFICULTY OF TRAVELING TO CANADA OR MEXICO ARE POINTS THE  
9 GOVERNMENT CONCEDES DUE TO SOME SMALL DEGREE MITIGATE THE  
10 RISK, BUT THIS IS NOT JUST ANY DEFENDANT, THIS IS A  
11 DEFENDANT WITH SUBSTANTIAL TIES TO CHINA AND A SUBSTANTIAL  
12 MOTIVE TO FLEE; AND I WON'T REPEAT ALL THOSE RECORDS, I  
13 KNOW YOUR HONOR HAS READ THOSE RECORDS EARLIER.

14 THE COURT: LET ME ASK YOU THIS, CAN'T THE RISK  
15 OF FLIGHT, WHATEVER IT IS, BE MITIGATED HERE BY THE COURT  
16 REQUIRING HOME CONFINEMENT WITH ELECTRONIC MONITORING AND  
17 OTHER KINDS OF SAFEGUARDS THAT REQUIRE MULTIPLE DAILY  
18 CONTACTS WITH THE PROBATION OFFICE?

19 MR. HARKER: YOUR HONOR, I THINK IT CAN BE  
20 MITIGATED, BUT NOT TO THE POINT WHERE WE -- NOT ANY  
21 REASONABLE SET OF CONDITIONS THAT WOULD ASSURE HER  
22 APPEARANCE AT TRIAL; AND I WOULD ADD THAT PRECISELY AS A  
23 RESULT OF THE CORONAVIRUS THE ABILITY OF LAW ENFORCEMENT  
24 TO EFFECTUATE THE TERMS OF THE COURT ORDER ABOUT CONDI-  
25 TIONS OF RELEASE IS ITSELF UNDERMINED. MY UNDERSTANDING

1 IS THAT MONITORING GPS BY THE PROBATION OFFICE WERE, IF WE  
2 WERE EVEN TO ATTEMPT TO ASSIGN AN FBI AGENT OR SERIES OF  
3 AGENTS TO DO THIS, IT IS SEVERELY UNDERMINED. IN FACT,  
4 YOUR HONOR, I HAD EXTREME DIFFICULTY DELIVERING A TARGET  
5 LETTER JUST LAST WEEK, AND WE HAD TO END UP USING  
6 CERTIFIED MAIL TO DELIVER A TARGET LETTER TO A DEFENDANT  
7 IN A MAJOR CASE.

8 SO, AGAIN, YOUR HONOR, THE GOVERNMENT'S  
9 POSITION IS THAT, YES, THERE IS AN INCREASED RISK OF  
10 INFECTION IN THE JAIL. I DON'T KNOW IF THAT INCREASED  
11 RISK IS, WHETHER IT'S SIZEABLE OR WHETHER IT'S NEGLIGIBLE,  
12 BUT I THINK IT'S FAIR TO CONCEDE THE COURT'S POINT THAT IT  
13 IS A HIGHER RISK THAN LIVING ON A FARM BY YOURSELF; BUT,  
14 ON THE OTHER HAND, THE DEFENDANT'S RISK OF FLIGHT IS AT  
15 LEAST AS GREAT AS IT WAS LAST YEAR WHEN THE GOVERNMENT WON  
16 THIS ARGUMENT WITH THE MAGISTRATE AND ON APPEAL AT THE  
17 DISTRICT COURT LEVEL; AND FROM THE GOVERNMENT'S VIEW IT'S  
18 ACTUALLY STRONGER NOW IN LIGHT OF THE PENDING TRIAL AND  
19 THE STRENGTH OF THE GOVERNMENT'S EVIDENCE, AS WELL AS THE  
20 DIFFICULTY THE EXECUTIVE BRANCH WOULD HAVE AND THE  
21 PROBATION OFFICE WOULD HAVE IN ENFORCING THE COURT'S  
22 CONDITIONS OF RELEASE. AND I HAVE REVIEWED THE CONDI-  
23 TIONS, AND I SEE THAT THEY LARGELY TRACK THE GOVERNMENT'S  
24 REQUEST, BUT I DON'T THINK THAT THEY SUFFICIENTLY MITIGATE  
25 THE RISK TO ASSURE THE DEFENDANT'S APPEARANCE AT TRIAL.



1 THE COURT: ALL RIGHT, MR. HARKER.

2 ANYTHING ELSE, MR. SHIPLEY?

3 MR. SHIPLEY: YOUR HONOR, IF, IF IT EVEN NEEDS  
4 TO BE ADDRESSED, JUDGE, I WOULD TAKE EXCEPTION WITH THE  
5 GOVERNMENT'S POSITION ON HOW THE -- NOW THE DEFENDANT IN  
6 THIS CASE, DR. YOU, AND BOTH HER AND HER HUSBAND HAVE MADE  
7 FALSE STATEMENTS TO INDUCE ANYTHING, JUDGE. AGAIN, AGAIN,  
8 JUDGE, THERE WAS NEVER ANY INTENTIONAL MISREPRESENTATION  
9 TO ANYONE BY ANYONE. I THINK THE CHARACTERIZATION THERE  
10 IS A LITTLE SHORTSIGHTED. JUST ASSUMING, ASSUMING THAT  
11 THAT WOULD BE THE CASE, JUDGE, BUT THAT'S NOT THE CASE.  
12 THAT'S NOT THE CASE THAT THEY HAVE, HER HUSBAND AND  
13 DR. YOU HAVE CONSPIRED TO MAKE SOME WRONG STATEMENTS THAT  
14 WOULD NOW CAUSE HER FLIGHT RISK TO INCREASE BECAUSE OF  
15 THAT, JUDGE. THERE IS NO --

16 THE COURT: WELL, AT LEAST TO THIS EXTENT,  
17 MR. SHIPLEY, I DISAGREE WITH YOU A BIT BECAUSE IF HER  
18 CREDIBILITY IS SUSPECT, FURTHER SUSPECT AT THIS POINT,  
19 THEN IT DOES INCREASE THE RISK OF FLIGHT IN MY VIEW. AND  
20 I DON'T -- YOU KNOW, I READ THE LANGUAGE FROM YOUR PLEAD-  
21 ING, THAT LANGUAGE, THAT WAS NOT CORRECT. THE JOHNSON  
22 CITY PROPERTY, THE WASHINGTON COUNTY PROPERTY WAS NOT  
23 AVAILABLE FOR HER TO LIVE IN BECAUSE THERE IS A LEASE, AND  
24 IT'S OBVIOUSLY A WRITTEN LEASE. THE GOVERNMENT HAS A COPY  
25 OF THAT, YOU KNOW, WRITTEN LEASE, THE GOVERNMENT HAS A

1 COPY OF THAT LEASE, AND THERE WAS NEVER ANY EFFORT BY  
2 ANYBODY TO CORRECT THAT, AND SO THAT'S THE REAL ISSUE.

3 I MEAN, I THINK ALL OF YOU KNOW HOW IMPORTANT  
4 CANDOR WITH THE COURT IS, TO ME, AT LEAST, AND THERE'S  
5 ONLY ONE POSSIBLE WAY IN MY OPINION TO READ THOSE  
6 SENTENCES THAT I READ FROM YOUR PLEADING; BUT, NEVERTHE-  
7 LESS, THE BIGGER ISSUE IS DOES THAT CAUSE HER CREDIBILITY  
8 OR THE TRUSTWORTHINESS OF HER PROMISES TO THE COURT TO BE  
9 MORE SUSPECT THAN THEY WERE BEFORE, AND THAT'S, THAT'S  
10 WHAT TROUBLES ME. I MEAN, I'M NOT SURE WHY IT WAS EVEN  
11 PROPOSED THAT SHE LIVE IN THE WASHINGTON COUNTY PROPERTY  
12 IN THE FIRST PLACE SINCE IT WAS NOT AVAILABLE.

13 MR. JESSEE: YOUR HONOR, MAY I SPEAK JUST A  
14 MINUTE? I CAN'T SEE YOU, SO I CAN'T -- THIS IS TOM  
15 JESSEE. I TALKED TO THE REALTORS THIS TIME AND THE TIME  
16 BEFORE. THERE IS A POSSIBILITY, WHICH WE WOULD HAVE  
17 SOLIDIFIED ONE WAY OR THE OTHER, AS TO WHETHER THE TENANTS  
18 WERE WILLING TO VACATE UNDER THE CIRCUMSTANCES. YOU'RE  
19 CORRECT, WE COULD NOT JUST GO KICK THEM OUT, BUT THERE WAS  
20 AND IS, DEPENDING ON WHAT WE DEVELOPED AS THE PLAN. SO  
21 I'LL TAKE THE BLAME FOR THE WAY THE WORDING WAS PUT IN  
22 THERE, BUT THERE IS A POSSIBILITY BECAUSE I KNEW THAT  
23 THERE WAS APARTMENTS AVAILABLE WE WERE GOING TO ASK THOSE  
24 PEOPLE TO MOVE TO UNDER THE CIRCUMSTANCES, BUT WE WERE  
25 TRYING TO FIGURE OUT, THIS WHOLE THING MR. HARKER SAID

1 ABOUT DR. YOU'S HUSBAND NOT BEING WILLING TO COMMUTE,  
2 WE'VE BEEN TRYING TO FIGURE OUT SINCE DAY ONE WHEN THIS  
3 LOCKDOWN STARTED WHETHER HE'D GET LOCKED DOWN OR NOT. WE  
4 TALKED ABOUT WITH THE PROBATION OFFICER EVERYTHING DR. YOU  
5 OWNS AS FAR AS CLOTHING AND STUFF IS IN THE ATLANTA AREA,  
6 AND SHE WOULD HAVE TO GO THERE TO GET HER BELONGINGS.  
7 IT'S MY FAULT IT WASN'T CONCRETE, AND I'LL TAKE THE BLAME  
8 FOR IT, BUT IT CERTAINLY WASN'T DONE OTHER THAN AS AN  
9 ALTERNATIVE. I ASSURE YOU THAT ON MONDAY WHEN I WALKED  
10 INTO JUDGE WYRICK'S COURT, I WOULD HAVE GIVEN HER THE PLAN  
11 AND DIDN'T EVEN ANTICIPATE GETTING TALKED TO BY THE, BY  
12 THE PROBATION OFFICE BEFORE THEN. SO I WANT TO APOLOGIZE  
13 TO THE COURT, BUT WHEREVER YOUR HONOR -- SHOULD YOU DECIDE  
14 TO LET HER OUT, SHE'LL LIVE WHEREVER YOU TELL HER SHE HAS  
15 TO LIVE.

16 THE COURT: MR. JESSEE, MR. SHIPLEY, WHAT KIND  
17 OF LIQUID ASSETS DOES DR. YOU HAVE ACCESS TO?

18 MR. JESSEE: YOUR HONOR, I DIDN'T -- THE SOUND  
19 BLURB, I COULDN'T HEAR YOUR QUESTION.

20 THE COURT: WHAT KIND OF LIQUID ASSETS DOES  
21 DR. YOU HAVE ACCESS TO?

22 MR. JESSEE: THEY HAVE, THEY HAVE THEIR BANK  
23 ACCOUNTS, WHICH HAVE BEEN SUBSTANTIALLY REDUCED THROUGH  
24 THE COST OF THIS. DR. YOU'S HUSBAND IS WORKING EVERYDAY,  
25 SO THEY HAVE THAT JOINT BANK ACCOUNT. I WOULD HAVE TO GET

1 AN UPDATED LIST TO THE COURT AS TO WHAT'S AVAILABLE AS OF  
2 TO THAT.

3 THE COURT: WOULD YOU SAY THEY ARE SUBSTANTIAL?

4 MR. JESSEE: I WOULD SAY THAT -- WELL, I DON'T  
5 HAVE ANY WAY OF CONFERRING WITH DR. YOU. I'M JUST SENDING  
6 A TEXT RIGHT NOW TO HER HUSBAND AS TO HOW MUCH MONEY HE  
7 HAS IN THE BANK; AND I KNOW THAT BECAUSE OF THE COST OF  
8 THIS PREPARATION THEY HAVE SPENT THE MAJORITY OF WHAT THEY  
9 HAD, OR WHAT I WOULD CALL LIQUID ASSETS, BUT LET ME SEE IF  
10 HE ANSWERS IN A SECOND. IF -- HE USUALLY ANSWERS  
11 RELATIVELY QUICKLY, SO LET ME -- YOUR HONOR, IF I COULD,  
12 IF I COULD MUTE MY VIDEO HERE, I CAN CALL HIM AND THEN  
13 TURN IT BACK ON IF YOU WOULD PREFER.

14 THE COURT: ALL RIGHT. WHY DON'T YOU DO THAT.

15 MR. JESSEE: ALL RIGHT.

16 (MR. JESSEE MUTES HIS END OF THE CONFERENCE)

17 THE COURT: WHILE MR. JESSEE IS DOING THAT,  
18 LET'S GO AHEAD AND ADDRESS THE ISSUE OF RESCHEDULING THIS  
19 CASE FOR TRIAL.

20 MR. SHIPLEY, JUDGE WYRICK PUT DOWN A RATHER  
21 DETAILED ORDER ABOUT THE REQUEST FOR VIDEO CONFERENCING  
22 AND, IN FACT, AGREED TO PERMIT VIDEO DEPOSITIONS TO BE  
23 TAKEN. WHERE ARE YOU WITH ARRANGEMENTS TO DO THAT?

24 MR. SHIPLEY: JUDGE, I WAS JUST PROVIDED AN  
25 UPDATE THIS MORNING ON THAT, JUDGE. WE HAVE, WE HAVE

1 TALKED TO TWO COMPANIES THAT HAVE THE CAPABILITY TO SET UP  
2 THESE DEPOSITIONS IN CHINA. THE LAWYER IN PARTICULAR  
3 WE'VE BEEN TALKING TO THROUGH DR. YOU'S HUSBAND HAS AN  
4 INTERNATIONAL DEPARTMENT IN HIS LAW FIRM WHICH IS CAPABLE  
5 OF ASSISTING THESE DEPOSITIONS IN ENGLISH WHO THEY HAVE  
6 ALSO REACHED OUT NOT ONLY TO THEIR FIRM BUT ALSO A LARGER  
7 FIRM. THE TWO WITNESSES IN WEIHAI ARE NOW ALLOWED TO  
8 TRAVEL TO BEIJING BUT MUST QUARANTINE FOR 14 DAYS WHEN  
9 THEY GET THERE AND WHEN THEY RETURN.

10 RIGHT NOW, JUDGE, WE ARE CHECKING, WE ARE  
11 LOOKING INTO A CITY OUTSIDE OF BEIJING CLOSER TO WUHAN  
12 WHERE THE TRAVEL, WHERE THE TRAVEL MIGHT NOT BE AS  
13 RESTRICTED. WE'VE ALSO REACHED OUT, JUDGE --

14 THE COURT: AS I UNDERSTAND IT FROM THE NEWS,  
15 THE CHINESE GOVERNMENT LIFTED SOME TRAVEL RESTRICTIONS  
16 FROM WUHAN TO OTHER AREAS OF THE COUNTRY YESTERDAY.

17 MR. SHIPLEY: SO THAT'S WHAT WE'RE TRYING TO  
18 LOOK AT, JUDGE, AS FAR AS SOME PLACES THAT ARE CLOSER.  
19 WE'VE ALSO REACHED OUT TO A HONG KONG LAW FIRM WITH  
20 OFFICES IN BEIJING.

21 WE'RE HOPING, JUDGE, TO BE ABLE TO PROVIDE, IF  
22 REQUIRED, JUDGE, AND I HAVE HERE IN MY NOTES THAT,  
23 OBVIOUSLY WHAT THE COURT JUST SAID, THEY HAVE JUST AS OF  
24 YESTERDAY, BASED ON MY NOTES HERE LIKE YOU SAID, JUDGE,  
25 THEY HAVE LIFTED SOME OF THE RESTRICTIONS, WHAT WE'RE

1 HOPING TO, WE'RE HOPING, JUDGE, WE'RE HOPING TO HAVE SOME  
2 MORE INFORMATION BY THE END OF THE WEEK SINCE EVERYTHING  
3 IS CHANGING. I --

4 THE COURT: GIVE ME AN IDEA OF HOW LONG YOU  
5 REALISTICALLY THINK IT WILL TAKE YOU TO GET THESE  
6 DEPOSITIONS DONE.

7 MR. SHIPLEY: IF EVERYTHING GOES WELL THIS  
8 WEEK, JUDGE, FROM WHAT I UNDERSTAND, AND THE TRAVEL  
9 RESTRICTIONS BEING LIFTED LIKE THEY ARE NOW, OR NOT LIFTED  
10 BUT BEING MODIFIED, I GUESS I SHOULD SAY, I DON'T ENVISION  
11 IT TAKING MONTHS, JUDGE, BUT I DON'T ENVISION US BEING  
12 ABLE TO DO IT NEXT WEEK EITHER; AND I KNOW THAT THAT'S,  
13 THAT'S NOT A DEFINITIVE ANSWER AND WHAT THE COURT WANTED  
14 TO HEAR, BUT I THINK THAT JUST WITH EVERYTHING CHANGING,  
15 AND WE'RE HOPE -- LIKE I SAID, WE'RE TRYING TO -- WE  
16 LOOKED AT THE BEIJING POSSIBILITY, BUT NOW WE'RE LOOKING  
17 BECAUSE OF THE WUHAN TRAVEL RESTRICTIONS BEING MODIFIED,  
18 WE'RE TRYING TO GET SOMEWHERE DIFFERENT. WE'VE CONTACTED  
19 MULTIPLE ATTORNEYS, JUDGE, IN CHINA AND IN JAPAN, JUDGE,  
20 TO TRY TO SEE IF THERE'S SOMEWHERE ELSE WE CAN DO THIS  
21 THAT'S MORE MUTUALLY CONVENIENT, THAT WAY WE CAN EXPEDITE  
22 THIS.

23 THE COURT: HAVE YOU BEEN ABLE TO RESOLVE THE  
24 ISSUE AT THIS POINT OF WHETHER THE CHINESE GOVERNMENT WILL  
25 EVEN ALLOW THESE WITNESSES TO TESTIFY BY DEPOSITION, OR IF

1 SO UNDER WHAT CIRCUMSTANCES?

2 MR. SHIPLEY: JUDGE, I WOULD PROBABLY, IF THE  
3 COURT WOULD, I DON'T MEAN TO PUT MR. JESSEE ON THE SPOT  
4 THERE, BUT AS FAR AS THE LOGISTICAL NATURE OF THE CHINESE  
5 GOVERNMENT, I WOULD LIKE TO ASK MR. JESSEE IF HE WOULDN'T  
6 MIND SPEAKING TO THAT, JUDGE, WITH THE RESTRICTION WITH  
7 THE CHINESE GOVERNMENT ISSUE.

8 THE COURT: ALL RIGHT. MR. JESSEE, ARE YOU  
9 BACK ON?

10 MR. JESSEE: I'M BACK ON, YOUR HONOR.

11 DR. YOU'S HUSBAND SAYS THEY HAVE \$90,000 IN  
12 BANK ACCOUNTS. THERE IS SOMEWHERE, HE DOESN'T KNOW BASED  
13 ON THE DROPS OF THE STOCK MARKET, SOMEWHERE COMBINED  
14 BETWEEN THE TWO OF THEM 400,000 PLUS OR MINUS IN  
15 RETIREMENT ACCOUNTS THROUGH THE COMPANIES THEY'VE WORKED  
16 FOR, BUT ACTUAL ACCESS TO CASH HE HAS \$90,000. THE HOUSE  
17 THAT THEY OWN IN THE ATLANTA AREA, WHICH I THINK IS  
18 SMYRNA, IS PAID FOR, HOWEVER.

19 AND AS FAR AS YOUR QUESTION ABOUT I -- YOU WORK  
20 THROUGH AN INTERPRETER WHEN I'VE BEEN TALKING TO CHINA, WE  
21 HAVEN'T GOT FINAL CONFIRMATION OF ANYTHING, BUT THE  
22 INTERNATIONAL LAW FIRM THERE IS, IS PROCESSING GETTING  
23 PERMISSION FROM THE GOVERNMENT TO ALLOW US TO TAKE THE  
24 DEPOSITIONS IN BEIJING IN A LAW OFFICE THAT'S SUITABLE TO  
25 YOUR HONOR'S, THE EARLIER ORDER OF THE COURT; AND I SPOKE

1 WITH THEM THE END OF LAST WEEK, AND WHERE THEY WERE, THE  
2 TWO WITNESSES -- THERE'S ONE WITNESS IN BEIJING, TWO IN  
3 WEIHAI, THEY ARE NOW ALLOWED TO TRAVEL FROM WEIHAI TO  
4 BEIJING, WHICH JUST OCCURRED RECENTLY. THEY HAVE A 14 DAY  
5 QUARANTINE GETTING THERE AND 14 DAYS WHEN THEY LEAVE, AND  
6 I KNOW WE'RE NOT WORRIED ABOUT WHEN THEY LEAVE. THEY  
7 SUGGESTED THAT THERE IS A SMALLER CITY WHICH DOESN'T HAVE  
8 QUITE THE LIMITATIONS ON TRAVEL THAT BEIJING HAS THAT THEY  
9 WERE CHECKING ON. I'VE TALKED TO TWO INTERNATIONAL  
10 COMPANIES THAT DO VIDEO CONFERENCING AND DEPOSITION WORK,  
11 AND THEY'RE WANTING A LITTLE MORE INFORMATION AS TO WHEN  
12 WE WOULD TAKE THESE. SO THE BOTTOM LINE IS I SHOULD KNOW  
13 BY THE END OF THIS WEEK THAT THERE EITHER IS ANOTHER  
14 ACCEPTABLE TOWN FOR THE WITNESSES TO TRAVEL TO THAT HAS AN  
15 AMERICAN-STYLE LAW OFFICE THAT WE CAN TAKE THEM IN;  
16 OTHERWISE, AS I SAID, WHEN THE WITNESSES GET TO BEIJING,  
17 THEY'RE QUARANTINED FOR 14 DAYS, AND THE LAW FIRM HAS MADE  
18 THE REQUEST, BUT EVERY WITNESS AND THE ATTORNEYS THAT  
19 WE'RE TALKING TO HAVE PRETTY MUCH SAID THEY'RE NOT  
20 CONCERNED ABOUT THE CHINESE GOVERNMENT NOT APPROVING THESE  
21 DEPOSITIONS. I HAVE NO -- NOTHING TO GIVE ME ANY COMFORT  
22 ONE WAY OR THE OTHER BECAUSE I CAN'T TALK TO ANYBODY  
23 EXCEPT THROUGH THE INTERPRETER; BUT I, I WOULD SUGGEST  
24 THAT WE GET THROUGH TO NEXT WEEK SINCE THEY'VE ALLOWED  
25 TRAVEL NOW, AND I'LL FILE A REPORT WITH THE COURT WITH THE



1 EXACT PLAN ASSUMING NOW THAT THERE'S TRAVEL WE HAVE A  
2 PLAN.

3 THE COURT: ALL RIGHT. YOU KNOW, ALL OF THAT  
4 SOUNDS VERY MUCH LIKE THE REPORT THAT YOU GAVE TO JUDGE  
5 WYRICK EARLIER. THERE ARE POSSIBILITIES, YOU'VE TALKED TO  
6 PEOPLE. WE NEED TO START PINNING THIS DOWN IN TERMS OF  
7 ALL THESE DETAILS SO THAT WE DETERMINE WHETHER THESE  
8 DEPOSITIONS CAN OR CANNOT GO FORWARD, AND WE NEED TO DO  
9 THAT RELATIVELY QUICKLY. BEYOND THAT, I'LL LEAVE IT IN  
10 YOUR HANDS TO, TO DO THAT. I WILL -- I DO WANT YOU TO  
11 FILE A STATUS REPORT THOUGH WITH THE COURT WITHIN A WEEK  
12 TO GIVE ME SPECIFICS ON WHERE YOU ARE WITH THESE  
13 POSSIBILITIES.

14 I MEAN, NUMBER ONE, YOU NEED TO DETERMINE THAT  
15 THERE'S NO IMPEDIMENT THAT THE CHINESE GOVERNMENT WILL  
16 RAISE TO THE TAKING OF DEPOSITIONS; NUMBER TWO, THAT THE  
17 WITNESSES CAN TRAVEL AND WHEN YOU ANTICIPATE DOING THE  
18 DEPOSITION; AND, THIRD, I GUESS, HOW LONG YOU EXPECT THIS  
19 PROCESS TO TAKE BEFORE WE CAN HAVE THIS TESTIMONY  
20 CAPTURED, SO A WEEK FROM TODAY --

21 MR. JESSEE: YOUR HONOR --

22 THE COURT: I'M SORRY, GO AHEAD.

23 MR. JESSEE: FOR YOUR PLANNING RIGHT NOW, EACH  
24 ONE OF THE WITNESSES WHEN I TALKED TO THEM ON FRIDAY, THE  
25 WITNESSES ARE NOT THE IMPEDIMENT, THEY ARE, THEY ARE

1 PREPARED TO APPEAR; AND OTHER THAN ONCE THEY OPENED UP THE  
2 TRAVEL, WHICH THEY DID LAST WEEK, NONE OF THEM HAVE GIVEN  
3 ME ANY REAL CONCERN. IT'S NAILING DOWN THE GOVERNMENT'S  
4 PERMISSION AND THE LAW FIRM'S SET-UP, SO I'LL HAVE A  
5 REPORT BY A WEEK FROM TODAY.

6 THE COURT: ALL RIGHT.

7 MR. HARKER: YOUR HONOR, MAY I COMMENT ON THIS?

8 THE COURT: YOU MAY, SURE.

9 MR. HARKER: I'M NOT AN EXPERT ON INTERNATIONAL  
10 LAW, BUT MY UNDERSTANDING IS THAT IN ORDER FOR THE DEFENSE  
11 TO CONDUCT THESE DEPOSITIONS ON CHINESE SOIL THEY ARE  
12 REQUIRED TO COMPLY WITH THE STATE DEPARTMENT'S LETTERS OF  
13 ROGATORY PROCESS, WHICH AS FAR AS I AM ABLE TO DISCERN  
14 INVOLVES FOUR STEPS. FIRST, THE DEFENSE MUST DRAFT  
15 LETTERS OF ROGATORY AND SUBMIT THEM TO THE COURT; SECOND,  
16 THE COURT MUST REVIEW THOSE LETTERS OF ROGATORY, DETERMINE  
17 WHETHER THEY SATISFY THE STATE DEPARTMENT'S REQUIREMENTS  
18 AND THEN SUBMIT THOSE LETTERS OF ROGATORY TO THE STATE  
19 DEPARTMENT FOR TRANSMISSION TO THE CHINESE AUTHORITIES  
20 THROUGH THE APPROPRIATE DIPLOMATIC CHANNELS ALONG WITH A  
21 LETTER OF TRANSLATION; AND STEP THREE, THE CHINESE  
22 GOVERNMENT WOULD HAVE TO REVIEW AND THEN NOTIFY THE STATE  
23 DEPARTMENT AS TO WHETHER OR NOT THEY'RE GOING TO APPROVE  
24 OF THE PROCESS; AND THEN AT STEP FOUR, IF APPROVED BY THE  
25 CHINESE GOVERNMENT, THE STATE DEPARTMENT WOULD NOTIFY THE

1 COURT THAT THE DEPOSITIONS COULD PROCEED ACCORDINGLY, AT  
2 WHICH POINT ALL OF JUDGE WYRICK'S OTHER CONDITIONS WOULD  
3 STILL APPLY. SO I DON'T HAVE ANY SENSE AS TO HOW LONG  
4 THAT PROCESS WOULD TAKE.

5 I DO HAVE ONE OTHER CONCERN, WHICH MY  
6 RECOLLECTION OF JUDGE WYRICK'S ORDER, IT WAS A LITTLE  
7 AMBIGUOUS, BUT IT MAY HAVE CONTEMPLATED THAT THE ATTORNEYS  
8 FOR THE GOVERNMENT AND THE DEFENSE WOULD BE PHYSICALLY  
9 PRESENT IN CHINA. IF THAT'S --

10 THE COURT: IT WAS A LITTLE UNCLEAR, BUT I  
11 THINK THAT'S IMPRACTICAL.

12 MR. HARKER: I WOULD SAY THAT IT IS, AND IT'S  
13 PARTICULARLY CONFUSING IN LIGHT OF THE RISK OF FLIGHT OF  
14 THE DEFENDANT AND THE ARGUMENT THAT SHE CAN'T GET TO  
15 CHINA.

16 THE COURT: MR. JESSEE, HAVE YOU CONTACTED THE  
17 STATE DEPARTMENT?

18 MR. JESSEE: I HAVE NOT CONTACTED OUR STATE  
19 DEPARTMENT, YOUR HONOR; BUT OUR LAWYER IN CHINA, I SENT  
20 MR. HARKER'S SUBMISSION THAT HE JUST WENT THROUGH OVER  
21 THERE TO ASK THEM WHAT THEIR UNDERSTANDING WAS AS TO WHAT  
22 WE WERE GOING TO HAVE TO DO TO GET THE INFORMATION  
23 NECESSARY, IF WE HAD TO GO THROUGH WHAT MR. HARKER JUST  
24 DESCRIBED. THEY ASSURED ME THEY ARE WORKING ON IT FROM  
25 THEIR END, AND THEY BELIEVE THEY WILL HAVE PERMISSION TO

1 BE ABLE TO DO THE DEPOSITIONS IN BEIJING; AND THAT'S ALL I  
2 KNOW.

3 THE COURT: ALL RIGHT.

4 MR. JESSEE: ALL I TOLD THEM WAS I KNOW FROM  
5 OUR COCOUNSEL THAT WE WERE WORKING WITH AT THE BEGINNING  
6 THE PROBLEM WITH TAKING A DEPOSITION IN CHINA IS US  
7 SHOWING UP IN CHINA WITHOUT CLEARANCE AND THEY WILL ARREST  
8 US. IF THE CHINESE GOVERNMENT CLEARS THE WITNESS THERE TO  
9 APPEAR AND WE TAKE IT BY VIDEO CONFERENCE, THERE IS NOT  
10 APPARENTLY THE HEIGHT OF CONCERN. ALL I'M DOING IS  
11 RELYING ON WHAT THE INTERNATIONAL LAW FIRM THAT WAS  
12 RECOMMENDED TO ME BY THE LAW FIRM IN LOS ANGELES TO TALK  
13 TO AND DEAL WITH.

14 ORIGINALLY, WE HAD TALKED ABOUT THE POSSIBILITY  
15 OF BRINGING THE WITNESSES OUT TO HONG KONG JUST BECAUSE  
16 THERE'S A TREATY THAT FACILITATES IT VERY EASILY, AND AT  
17 THIS POINT THEY CAN'T TRAVEL TO HONG KONG. SO I WILL  
18 REPORT IN A WEEK TO TELL HOPEFULLY HOW LONG AND WHAT IT  
19 WILL TAKE TO GET IT DONE.

20 THE COURT: ALL RIGHT. LET ME THROW OUT THREE  
21 POTENTIAL TRIAL DATES, AND YOU CAN REACT TO THESE; AND  
22 THESE MAY BE THE EARLIEST TRIAL DATES WE CAN FIND, BUT  
23 THEY ALSO MAY BE THE LATEST WE CAN FIND AND STILL  
24 ACCOMMODATE THE COURT'S SCHEDULE AND TO SOME EXTENT  
25 MR. HARKER'S SCHEDULE. WE HAVE A MULTI-WEEK TRIAL

1 SCHEDULED FOR -- WHEN IS THAT, MID SEPTEMBER?

2 MR. HARKER: YES, YOUR HONOR; AND I WOULD URGE  
3 THE COURT TO SCHEDULE THIS MATTER WITHOUT REGARD TO THAT  
4 MATTER.

5 THE COURT: ALL RIGHT.

6 MR. HARKER: TO CHOP THE WOOD THAT'S IN FRONT  
7 OF US.

8 THE COURT: ALL RIGHT. I WON'T TRY TO READ  
9 BETWEEN THE LINES ON THAT.

10 THE MOST LIKELY DATES ARE -- AND, OBVIOUSLY,  
11 THERE'S SOME UNCERTAINTY HERE, I DO NOT KNOW HOW LONG ALL  
12 THESE CONCERNS WILL LAST; BUT JULY 14, 21 OR 28.

13 MR. HARKER: YOUR HONOR, FOR THE GOVERNMENT,  
14 JULY 14TH OR JULY 21ST WOULD WORK. JULY 28TH WOULD -- THE  
15 END OF THAT, IF THE TRIAL LASTS A LITTLE UNDER TWO WEEKS,  
16 THE END OF THAT WOULD CONFLICT WITH ONE OF MY COCOUNSEL'S  
17 SCHEDULES, SO WE WOULD PREFER JULY 14TH OR JULY 21ST.

18 THE COURT: ALL RIGHT. MR. SHIPLEY,  
19 MR. JESSEE?

20 MR. JESSEE: SUBJECT TO REPORTING TO THE COURT  
21 WHAT THIS POSSIBILITY OF THE VIDEO DEPOSITION, JULY 14TH  
22 ON MY SCHEDULE IS BETTER.

23 THE COURT: MR. SHIPLEY, WHAT DOES YOUR  
24 CALENDAR LOOK LIKE?

25 MR. SHIPLEY: JUDGE, I CAN MAKE EITHER ONE OF

1 THOSE WORK. I MEAN, I HAVE A, I HAVE A FAMILY OBLIGATION  
2 THAT I HAD SET THERE FOR THE WEEK OF THE 14TH, BUT,  
3 OBVIOUSLY, IF THAT'S NOT CONVENIENT WITH THE COURT, SO I  
4 WILL DO THE 21ST, I COULD DO THE 21ST; BUT, JUDGE, THIS  
5 TAKES PRECEDENCE.

6 MR. JESSEE: 21ST IS FINE, OR THE 14TH JUDGE, I  
7 CAN DO EITHER ONE.

8 THE COURT: ALL RIGHT. ARE YOU PLANNING A  
9 VACATION ON THE 14TH?

10 MR. SHIPLEY: JUDGE, I WAS; BUT, JUDGE, WITH  
11 ALL THE UNCERTAINTY, I DON'T KNOW THAT I'LL BE GOING  
12 ANYWHERE; BUT ALSO, JUDGE, I WANT TO SAY THIS TRIAL WOULD  
13 TAKE PRECEDENCE OVER ANY TYPE OF VACATION THING THAT I  
14 WOULD HAVE. I MEAN, THE CHANCES OF ME GOING ON VACATION  
15 ON, IF THIS TRIAL WERE SET ON THE 21ST, OF COURSE, FOR  
16 THAT TIME IT'S HIGHLY UNLIKELY ANYWAY, SO.

17 THE COURT: YOU'RE LIVING DANGEROUSLY BY SAYING  
18 THAT WITHOUT CONSULTING WITH YOUR WIFE AND CHILDREN.

19 MR. SHIPLEY: FAIR POINT, JUDGE.

20 THE COURT: WELL, HOW ABOUT THE 21ST?

21 MR. SHIPLEY: FINE, YOUR HONOR. THANK YOU.

22 THE COURT: AND IF TWO WEEKS IS THE LENGTH,  
23 THEN IT SOUNDS LIKE WE CAN PROBABLY BE DONE IN ORDER TO  
24 ACCOMMODATE THE CONFLICTS WITH GOVERNMENT'S COUNSEL AS  
25 WELL.

1 ALL RIGHT. WE'LL RESET THE TRIAL FOR JANUARY  
2 21ST THEN.

3 THE CLERK: JULY.

4 THE COURT: NOT JANUARY. I'VE GOTTEN RUSTY.

5 DR. YOU, I DIDN'T KNOW THIS HAD BEEN PREPARED,  
6 BUT THERE WAS SOMETHING I SHOULD HAVE DONE WITH YOU RIGHT  
7 AT THE BEGINNING OF THE HEARING. THE CLERK HAS JUST  
8 HANDED ME A CONSENT TO APPEAR BY VIDEO CONFERENCE THAT HAS  
9 BEEN SIGNED APPARENTLY BY YOUR ATTORNEY WITH YOUR CONSENT  
10 AGREEING TO WAIVE YOUR RIGHT TO BE PERSONALLY PRESENT HERE  
11 TODAY AND APPEAR BY VIDEO CONFERENCE. DID YOU AUTHORIZE  
12 THE PLACEMENT OF YOUR SIGNATURE ON THIS DOCUMENT?

13 THE DEFENDANT: YES, YOUR HONOR.

14 THE COURT: AND YOU UNDERSTAND THAT THIS WAIVES  
15 YOUR RIGHT TO APPEAR HERE IN COURT PERSONALLY FOR THIS  
16 PROCEEDING?

17 THE DEFENDANT: YES, YOUR HONOR.

18 THE COURT: ALL RIGHT. AND HAVE ANY THREATS OR  
19 PROMISES BEEN MADE TO YOU BY ANYONE TO CONVINCE YOU TO  
20 SIGN THIS DOCUMENT?

21 THE DEFENDANT: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT. AND DID YOU REVIEW THE  
23 DOCUMENT WITH YOUR ATTORNEYS BEFORE YOU AUTHORIZED THE  
24 PLACEMENT OF YOUR SIGNATURE ON IT?

25 THE DEFENDANT: YES, YOUR HONOR.

1 THE COURT: ALL RIGHT. THEN I'LL MAKE A  
2 FINDING TO THE EXTENT NECESSARY THAT THE CONSENT TO APPEAR  
3 AND THE WAIVERS CONTAINED THEREIN IS KNOWINGLY AND  
4 VOLUNTARILY MADE, AND I WILL APPROVE IT.

5 THE DEFENDANT: YES, YOUR HONOR.

6 THE COURT: ALL RIGHT. COUNSEL, ANYTHING ELSE  
7 WE NEED TO ADDRESS TODAY?

8 MR. SHIPLEY: NOTHING FURTHER FROM ME, YOUR  
9 HONOR.

10 MR. HARKER: YOUR HONOR, I JUST HAD A FEW EXTRA  
11 POINTS THAT I THINK WE COULD ADDRESS EXPEDITIOUSLY.

12 THE COURT: ALL RIGHT.

13 MR. HARKER: ONE IS THERE WAS A HEARING ABOUT A  
14 MONTH AGO WHERE THERE WAS SOME CONFUSION, I THINK, AT  
15 LEAST ON THE GOVERNMENT'S PART, ABOUT THE GOVERNMENT  
16 WANTED TO PUT ON THE RECORD THAT THE DEFENSE HAD MADE A  
17 STRATEGIC DECISION NOT TO REQUEST THE GOVERNMENT'S EXPERT  
18 DISCLOSURES.

19 THE COURT: EXPERTS, YES.

20 MR. HARKER: AND THAT'S THEIR RIGHT, THEY'RE  
21 ABSOLUTELY ABLE TO DO THAT, IT WOULD TRIGGER THE  
22 RECIPROCAL OBLIGATION ON THEIR BEHALF WERE THEY TO REQUEST  
23 THE GOVERNMENT'S EXPERT DISCLOSURES; BUT WE HAVE NOT  
24 PROVIDED THAT INFORMATION TO THEM BECAUSE THEY HAVE NOT  
25 REQUESTED IT, THAT'S ONE ISSUE.



1 AT SOME POINT I THINK WE NEED TO HAVE A  
2 LAFLER/FRYE HEARING, AND THEN ALSO THERE IS A 120 PAGE  
3 TRANSCRIPT OF AN INTERVIEW. WE HAVE PROVIDED THAT  
4 TRANSCRIPT TO THE DEFENSE. I THINK WE'VE ASKED THEM TO --

5 THE COURT: JUST A MINUTE. THAT BACKGROUND  
6 NOISE, THAT NOISE IS GETTING WORSE, IS THAT THE PROBLEM  
7 YOU WERE TALKING TO ME EARLIER ABOUT?

8 MR. DEMBO {IT DEPARTMENT}: YES, IT'S FROM  
9 MR. JESSEE'S LINE.

10 MR. JESSEE: I CAN BARELY HEAR, JUDGE.

11 THE COURT: WELL, I THINK ALL THE BACKGROUND  
12 NOISE THAT WE'RE HEARING HERE IS COMING FROM YOUR PHONE.  
13 IF YOU WILL MUTE IT, I THINK THAT MIGHT CORRECT -- I GUESS  
14 HE LEFT US.

15 MR. JESSEE: NO, I'M ON MUTE.

16 THE COURT: OKAY. ALL RIGHT.

17 MR. JESSEE: I'LL MUTE.

18 THE COURT: IF YOU MUTE IT, THAT SOUNDS LIKE  
19 THAT SOLVES THE PROBLEM, AT LEAST PARTIALLY.

20 ALL RIGHT. GO AHEAD, MR. HARKER, I'M SORRY.

21 MR. HARKER: SO, YOUR HONOR, I DON'T KNOW IF WE  
22 NEED TO DISCUSS THESE ISSUES TODAY, BUT THERE IS THE  
23 REQUEST FOR THE GOVERNMENT'S EXPERT DISCLOSURES; SECOND,  
24 THERE'S -- IN ORDER TO AVOID IDEALLY A ROBINSON HEARING ON  
25 A LENGTHY TWO PLUS HOUR INTERVIEW, TRANSCRIBED INTERVIEW,

1 THE GOVERNMENT HAS PROVIDED A TRANSCRIPT TO THE DEFENSE.  
2 WE HAVE PROPOSED SOME CORRECTIONS TO IT, WE HAVE ASKED  
3 THEM TO GET BACK TO US, WE HOPE THEY CAN DO THAT PROMPTLY;  
4 BUT IN THE EVENT THAT THERE ARE SOME AREA OF DISAGREEMENT,  
5 OUR UNDERSTANDING OF THE COURT'S ORDER ON DISCOVERY AND  
6 SCHEDULING IS THAT THE PARTIES MUST IDENTIFY FOR THE COURT  
7 WHERE THE AREAS OF DISAGREEMENT ARE. THE GOVERNMENT HAS  
8 PROVIDED THAT INFORMATION TO THE DEFENSE, SO THE BALL IS  
9 IN THEIR COURT; AND THEN, THIRD, AT SOME POINT, MAYBE NOT  
10 TODAY, WE WOULD ASK THAT WE PUT ON THE RECORD THAT THE  
11 DEFENDANT HAS FORMALLY REJECTED THE GOVERNMENT'S PLEA  
12 OFFER.

13 THE COURT: ALL RIGHT. I DON'T USUALLY DO A  
14 LAFLETER/FRYE HEARING THIS EARLY IN THE PROCEEDINGS SIMPLY  
15 BECAUSE THINGS CHANGE AS WE APPROACH TRIAL, AND I WILL DO  
16 THAT MUCH CLOSER TO TRIAL.

17 MR. SHIPLEY, WHAT IS GOING ON WITH THE EXPERT  
18 DISCLOSURES, DO YOU INTEND TO SEEK RECIPROCAL DISCLOSURE  
19 AT SOME POINT IN THIS CASE?

20 MR. SHIPLEY: YES, YOUR HONOR. AND AS THE  
21 COURT CAN PROBABLY TELL, THAT WAS AN ISSUE THAT WAS A  
22 POINT OF CONTENTION DURING OUR LAST HEARING. ANY  
23 INSINUATION THAT IT WAS -- AND MR. HARKER IS RIGHT, IT IS,  
24 IT CAN BE A STRATEGIC DECISION; HOWEVER, JUDGE, THAT IS  
25 NOT THE CASE HERE. AS A MATTER OF FACT, JUDGE, MR. JESSEE

1 AND I SPOKE, SPOKE ABOUT THIS, WE, WE RECEIVED AN E-MAIL  
2 FROM MR. HARKER AT 11:27 THIS MORNING, AND I ASSUMED THAT  
3 THIS WOULD BE BROUGHT UP TO THE COURT.

4 MR. JESSEE HAS INFORMED ME THAT HIS, HIS  
5 ASSOCIATE THAT HE HAS, HE'S REQUESTED THAT SHE COMPLETE  
6 THE REQUEST FOR THE EXPERT DISCLOSURE, AND SHE'S NOT BEEN  
7 TO WORK IN THE PAST FEW DAYS BECAUSE SHE HAS PINK EYE AND  
8 MR. JESSEE DOESN'T WANT HER ANYWHERE AROUND THE OFFICE. I  
9 OVERHEARD THE CONVERSATION WITH HE AND HER THIS MORNING,  
10 THAT'S SOMETHING HE HAS REQUESTED.

11 JUDGE, FROM OUR STANDPOINT WE ARE STILL WAITING  
12 ON OUR REPORT, AND THAT'S SOMETHING THAT IT'S NOT, IT'S  
13 NOT ANYTHING, JUDGE, THAT IT HAS BEEN A STRATEGIC ISSUE,  
14 IT'S A MATTER OF WE'VE MADE THAT DECISION, WE'VE DISCUSSED  
15 THAT, AND IT'S PENDING AS SOON AS -- WE SHOULD HAVE THAT  
16 TO THE GOVERNMENT WITHIN A WEEK, OUR REQUEST FOR ANY TYPE  
17 OF EXPERT DISCLOSURES, AND WE WILL OBVIOUSLY PROVIDE  
18 ANYTHING THAT WE HAVE WHEN WE OBTAIN IT.

19 THE COURT: WHEN DO YOU ANTICIPATE GETTING AN  
20 EXPERT REPORT?

21 MR. SHIPLEY: THE LAST TIME, JUDGE, THAT  
22 MR. JESSEE AND I SPOKE ABOUT THIS, AND TALKING WITH OUR  
23 EXPERT, WE, WE -- WE'RE EXPECTING THAT REPORT, JUDGE, ANY  
24 DAY FROM HIM; AND THAT'S SOMETHING, LIKE I SAID, JUDGE,  
25 ONCE WE, ONCE WE REQUEST THAT FROM THE GOVERNMENT, JUDGE,

1 WHICH SHOULD BE FORTHCOMING WITHIN THE NEXT -- HONESTLY,  
2 JUDGE, IF WE CAN GET IT TO THEM TOMORROW, WE WILL; BUT  
3 THAT'S SOMETHING IF I HAVE TO DRAFT IT, JUDGE, IT'S  
4 SOMETHING I'LL DO; BUT THAT WAS SOMETHING WE HAD GIVEN HER  
5 TO DO, AND IT WILL BE FORTHCOMING, JUDGE; BUT I DON'T SEE  
6 ANY TYPE OF UNDUE DELAY FROM OUR EXPERT REPORT. I THINK  
7 HE HAS GONE THROUGH MOST OF EVERYTHING THAT HE HAS HAD  
8 ACCESS TO DO, JUDGE.

9 THAT'S ANOTHER THING THAT WE'RE HOPING TO  
10 PROVIDE TO THE COURT, ANOTHER THING THAT -- I DON'T KNOW  
11 THAT THE COURT NEEDS TO ADDRESS THAT NOW BECAUSE WE'RE  
12 HOPING WE CAN COME TO AN AGREEMENT WITH THE GOVERNMENT ON  
13 ANOTHER SUBSEQUENT MODIFICATION OF THIS PROTECTIVE ORDER  
14 IN THIS CASE, JUDGE. THE -- MR. HARKER'S COCOUNSEL, WE  
15 HAVE BEEN IN CONTACT WITH HIM ABOUT MODIFYING THIS  
16 PROTECTIVE ORDER TO HAVE EASIER ACCESS TO THE DISCOVERY  
17 MATERIAL. WE HAVE SENT A LENGTHY E-MAIL TO MR. WALCZEWSKI  
18 ABOUT SAFEKEEPING OF THE MATERIAL. WE HAVE DESCRIBED THE  
19 SAFES THAT MR. JESSEE AND I BOTH HAVE THAT WE CAN STORE  
20 THE MATERIAL, THE QUOTE, UNQUOTE, TRADE SECRET MATERIAL.  
21 THAT'S SOMETHING ELSE, JUDGE, THAT WE DON'T WANT TO  
22 PRESENT TO THE COURT AT THIS POINT BECAUSE WE THINK WE'RE  
23 WORKING TOWARD A RESOLUTION ON PROVIDING THE COURT WITH  
24 SOMETHING OF AN AGREEMENT TO MODIFY THE PROTECTIVE ORDER  
25 TO ALLOW EASIER ACCESS TO THE DISCOVERY; AND I THINK,

1 JUDGE, THAT I CAN SAY THIS WITH A HIGH DEGREE OF  
2 CERTAINTY, IF -- THE REASON IT'S TAKING A LONG TIME TO --  
3 AND THIS IS NO, THIS IS NO CASTING STONES AGAINST THE  
4 GOVERNMENT BECAUSE WE UNDERSTAND THEIR POSITION, BUT IT'S  
5 THE ACCESS OUR EXPERT HAS HAD TO THE MATERIAL. IT WAS  
6 HERE, AND THEN THEY WERE VERY ACCOMMODATING TO TAKE IT OUT  
7 TO THE FBI OFFICE IN LOS ANGELES, BUT IT'S A MATTER OF  
8 WHAT YOU CAN TAKE IN AND WHAT YOU CAN TAKE OUT; AND I  
9 THINK, JUDGE, THAT'S SOMETHING THAT WE ARE WORKING TOWARD  
10 GETTING THE COURT SOMETHING PENDING THE COURT'S APPROVAL  
11 OF MODIFYING THAT PROTECTIVE ORDER.

12 THE COURT: ALL RIGHT. IT SOUNDS LIKE YOU  
13 WON'T HAVE ANY TROUBLE THEN MAKING YOUR REQUEST FOR EXPERT  
14 DISCLOSURES WITHIN 14 DAYS?

15 MR. SHIPLEY: NO, JUDGE, THAT WILL NOT BE A  
16 PROBLEM.

17 THE COURT: ALL RIGHT, THEN THE DEFENDANT WILL  
18 MAKE THAT REQUEST WITHIN 14 DAYS OF TODAY.

19 AND DID -- I DON'T HAVE THE SCHEDULING ORDER IN  
20 FRONT OF ME, WAS THERE A DATE SET IN THAT SCHEDULING ORDER  
21 THEN FOR THE DISCLOSURE BY THE DEFENDANT?

22 MR. HARKER: THERE WAS NOT, YOUR HONOR.

23 THE COURT: WHAT DO YOU SUGGEST IS A REASONABLE  
24 TIME, MR. HARKER?

25 MR. HARKER: YOUR HONOR, I -- AS LONG AS WE

1 HAVE IT TWO MONTHS IN ADVANCE OF TRIAL, A MONTH IN ADVANCE  
2 OF TRIAL, THAT'S SUFFICIENT. I THINK THE ISSUE IS JUST  
3 PROTECTING THE RECORD HERE PRIMARILY.

4 THE COURT: ALL RIGHT. THEN THE PLAINTIFFS --  
5 I MEAN THE DEFENDANT WILL FILE THE REQUEST WITHIN 14 DAYS,  
6 THAT WILL TRIGGER THEN THE REQUIREMENT THAT THE DEFENDANT  
7 MAKE EXPERT DISCLOSURES WITHIN 30 DAYS OF THAT.

8 MR. HARKER: THANK YOU, YOUR HONOR.

9 THE COURT: I ADDRESSED LAFLETER/FRYE.

10 WHAT'S YOUR PERSPECTIVE ON THIS TRANSCRIPT  
11 ISSUE AND THE NEED FOR A ROBINSON HEARING, MR. SHIPLEY?

12 MR. SHIPLEY: JUDGE, I HAVE LOOKED THROUGH THE  
13 TRANSCRIPT AT LENGTH, I DON'T THINK IT'S GOING TO BE  
14 NECESSARY TO HAVE A ROBINSON HEARING. I THINK THAT'S  
15 SOMETHING THAT I BELIEVE MR. HARKER AND I HAVE EVEN  
16 DISCUSSED THAT ABOUT THE CERTAIN STIPULATIONS THAT WE CAN  
17 POSSIBLY DO GOING INTO TRIAL. THERE IS SOME INCON-  
18 SISTENCIES WITHIN THAT, JUDGE, SOME SPELLING AND SOME  
19 WORDS THAT I THINK ARE OUT OF CONTEXT, BUT THAT'S  
20 SOMETHING I THINK I CAN TAKE UP WITH MR. HARKER, AND I  
21 THINK WE CAN REACH AN AGREEMENT ON THAT ABOUT CERTAIN  
22 THINGS WITHOUT RESORTING TO HAVING A ROBINSON HEARING.

23 THE COURT: ALL RIGHT. OBVIOUSLY, A ROBINSON  
24 HEARING INVOLVING A TRANSCRIPT THIS LONG COULD TAKE A FAIR  
25 AMOUNT OF TIME. I GUESS MY CONCERN HERE IS THAT WE NEED

1 TO GET THAT DONE AS FAR IN ADVANCE OF THE TRIAL DATE AS  
2 POSSIBLE. CAN YOU COMPLETE YOUR REVIEW OF THAT TRANSCRIPT  
3 AND GIVE THE COURT A NOTICE WITHIN 30 DAYS OF WHETHER  
4 THERE WILL BE A ROBINSON HEARING REQUIRED?

5 MR. SHIPLEY: JUDGE, I'LL DO SO.

6 THE COURT: ALL RIGHT. IS THAT SATISFACTORY,  
7 MR. HARKER?

8 MR. HARKER: YES, IT IS, YOUR HONOR. THANK  
9 YOU.

10 THE COURT: ALL RIGHT. AND AS FAR AS THE  
11 PROTECTIVE ORDER MODIFICATION IS CONCERNED, MR. SHIPLEY, I  
12 DON'T HAVE ANYTHING BEFORE ME AT THIS POINT. HOPEFULLY  
13 YOU ALL CAN REACH A, AN AGREEMENT ON THAT. I -- I TAKE IT  
14 IF DR. YOU IS RELEASED ON BOND, THAT SOME OF THE CONCERNS  
15 ABOUT THAT BECOME MOOT? I MEAN, SHE IS -- I MEAN, YOU'RE  
16 TELLING ME SHE'S LIVING WITHIN A HALF MILE OF THE FBI'S  
17 OFFICE, IT SEEMS TO ME THAT HER REVIEW OF THOSE DOCUMENTS  
18 AT THE FBI'S OFFICE WOULD BE FAR, FAR PREFERABLE TO WHAT  
19 YOU HAVE NOW.

20 MR. SHIPLEY: IT WOULD BE, JUDGE, AND THAT'S  
21 SOMETHING THAT WE'VE TALKED A LOT ABOUT IN THE PROTECTIVE  
22 ORDER THAT WAS PRIOR TO -- WE'VE BEEN DISCUSSING THAT FOR  
23 QUITE SOME TIME, JUDGE, WITH THE GOVERNMENT AS A MODIFICA-  
24 TION; BUT, YES, JUDGE, I MEAN, THAT, THE ELEPHANT -- THE  
25 PROVERBIAL ELEPHANT IN THE ROOM HERE IF SHE WERE TO BE

1 RELEASED ON SOME TYPE OF BOND, THEN THAT WOULD ALLOW  
2 EASIER ACCESS TO LOOK AT THE MATERIAL, JUDGE, YOU'RE  
3 ABSOLUTELY CORRECT ON THAT.

4 I THINK MR. JESSEE AND I AND OUR EXPERT IN LOS  
5 ANGELES WERE TALKING TO THE GOVERNMENT WITH THE  
6 UNDERSTANDING THAT US HAVING THE MATERIAL, BEING ABLE TO  
7 GO OVER THAT MATERIAL, DO THE PROPER TRIAL PREP WITHOUT  
8 HAVING TO GO TO THE FBI TO LOOK AT IT; BUT, JUDGE, IF SHE  
9 IS RELEASED, THAT'S EASIER ACCESS TO EVERYTHING.

10 SO THAT'S SOMETHING THAT PENDING THE COURT'S  
11 ORDER ON, ONE OF THE REASONS WE'RE HERE TODAY ON RELEASE,  
12 I THINK THAT WILL MORE THAN LIKELY CAUSE THE NEXT  
13 CONVERSATION WITH MR. HARKER AND MR. WALCZEWSKI ABOUT WHAT  
14 WE'RE GOING TO DO TO THE UNDERLYING PROTECTIVE ORDER.

15 THE COURT: ALL RIGHT. YOU JUST SAID YOUR  
16 EXPERT IS IN LOS ANGELES?

17 MR. SHIPLEY: THAT'S CORRECT, JUDGE.

18 THE COURT: ONE OF THE THINGS YOU NEED TO DO,  
19 OBVIOUSLY, I WOULD EXPECT YOU TO DO ANYWAY, IS COMMUNICATE  
20 TO YOUR EXPERT WHAT THE REQUIREMENTS FOR DISCLOSURE ARE  
21 GOING TO BE, AND, OBVIOUSLY YOUR EXPERT NEEDS TO GET THOSE  
22 REPORTS, REPORT OR REPORTS TO YOU IN SUFFICIENT TIME THAT  
23 YOU DON'T HAVE TO ASK FOR AN EXTENSION OF THAT DEADLINE.

24 MR. SHIPLEY: JUDGE, I'LL CONTACT HIM THIS  
25 AFTERNOON.



1 THE COURT: ALL RIGHT.

2 ALL RIGHT. THEN IS THAT ALL WE CAN DO EXCEPT  
3 FOR THE BOND ISSUE?

4 MR. HARKER: THAT'S EVERYTHING FROM THE  
5 GOVERNMENT, YOUR HONOR.

6 MR. SHIPLEY: EVERYTHING I HAVE, JUDGE.

7 THE COURT: ALL RIGHT. WELL, AS FAR AS THE  
8 MOTION FOR RELEASE ON BOND, I CONTINUE TO BE BOTHERED BY  
9 THE FACT THAT THIS HEARING WAS EVEN NECESSARY BECAUSE  
10 THERE WERE INDEED STATEMENTS MADE IN BOTH THE DEFENDANT'S  
11 MOTION AND THE ACCOMPANYING MEMORANDUM THAT HAVE PROVEN TO  
12 BE INACCURATE. I DO NOT MAKE ANY FINDING THAT THE LAWYERS  
13 WERE INTENTIONALLY MISREPRESENTING ANY FACT TO THE COURT;  
14 HOWEVER, I AGREE WITH MR. HARKER, ESPECIALLY IN LIGHT OF  
15 THE FACT THAT THERE IS A WRITTEN LEASE COVERING THAT  
16 JOHNSON CITY PROPERTY, THAT DR. YOU AND/OR HER HUSBAND  
17 WERE FULLY AWARE THAT THAT JOHNSON CITY PROPERTY WAS NOT  
18 AVAILABLE AT THAT TIME FOR HER TO RESIDE THERE; AND TO THE  
19 EXTENT THAT RAISES A CREDIBILITY PROBLEM WITH DR. YOU,  
20 THEN THAT CREDIBILITY PROBLEM EXTENDS BEYOND THE ISSUES  
21 RAISED IN THE MOTION FOR BOND AND, FRANKLY, CALLS INTO  
22 QUESTION THE CREDIBILITY OF CERTAIN PROMISES SHE WOULD BE  
23 REQUIRED TO MAKE TO THIS COURT IF SHE WERE RELEASED ON  
24 BOND.

25 I WILL GIVE YOU WHAT I WILL TERM AS A

1 PRELIMINARY RULING ON THE MOTION. THERE WILL NOT BE A  
2 FINAL RULING ON THE MOTION, HOWEVER, UNTIL YOU RECEIVE THE  
3 COURT'S MEMORANDUM OPINION.

4 DESPITE MY CONCERN ABOUT THAT, IT APPEARS TO ME  
5 THAT THE FINDINGS MADE IN THE COURT'S PRIOR ORDER, THE NOW  
6 VACATED ORDER, WERE IN FACT JUSTIFIED, AND I SEE NO REASON  
7 TO CHANGE THEM. I AM INCLINED TO GRANT THE MOTION FOR  
8 BOND SUBJECT TO CONDITIONS.

9 DO YOU HAVE THAT, BY THE WAY?

10 AND IT WOULD BE OUR GOAL, OF COURSE, TO GET YOU  
11 A FINAL ORDER ON THIS BY WEEK'S END.

12 DESPITE THE GOVERNMENT'S ARGUMENT THAT THE RISK  
13 OF FLIGHT HAS IN FACT BECOME GREATER GIVEN THE CIRCUM-  
14 STANCES, I SIMPLY DO NOT AGREE. IN ADDITION, I THINK THE  
15 POSSIBILITY OF RISK OF HARM TO THE DEFENDANT AND/OR OTHER  
16 INMATES AT THE JAIL WHERE SHE IS CURRENTLY HOUSED AS A  
17 RESULT OF THE COVID-19 VIRUS ARE INDEED REAL DESPITE THE  
18 FACT THAT THERE DO NOT APPEAR TO BE ANY CONFIRMED CASES OF  
19 THE VIRUS AT THAT PARTICULAR FACILITY.

20 SEVERAL THINGS LEAD ME TO THE CONCLUSION THAT  
21 THAT RISK IS VERY REAL AND THAT IT IS A SIGNIFICANT FACTOR  
22 IN DETERMINING WHETHER OR NOT TO RELEASE DR. YOU ON BOND  
23 PENDING THE JANUARY -- EXCUSE ME, I SAID JANUARY AGAIN --  
24 JULY 21 TRIAL DATE.

25 FIRST OF ALL, THERE HAVE BEEN SOME SERIOUS OUT-

1 BREAKS IN CORRECTIONAL FACILITIES ACROSS THE COUNTRY, AT  
2 LEAST ONE IN A BUREAU OF PRISONS FACILITY, BUT ALSO A  
3 NUMBER IN LOCAL JAILS. THAT RISK IS VERY REAL BECAUSE  
4 THERE ARE A LARGE NUMBER OF PEOPLE CONFINED IN A RELA-  
5 TIVELY SMALL SPACE WITH BOTH VISITORS AND NEW INMATES  
6 COMING INTO THOSE FACILITIES ON A REGULAR BASIS.

7 NOW, CERTAINLY THE PRECAUTIONS THAT MR. HARKER  
8 HAS DESCRIBED ARE IMPORTANT, BUT ONE OF THE THINGS THAT'S  
9 OCCURRED DURING THIS BREAK FROM COURT ACTIVITY IS THAT THE  
10 COURT HAS HAD A LOT OF TIME TO DO READING AND HAVE READ  
11 SOME ARTICLES JUST IN THE LAST FEW DAYS THAT INDICATE THAT  
12 PEOPLE WHO ARE COMPLETELY ASYMPTOMATIC NEVERTHELESS CAN  
13 SPREAD THE VIRUS.

14 I ALSO NOTE THAT IN THE LAST COUPLE OF WEEKS  
15 THE ATTORNEY GENERAL HAS TAKEN SOME ACTIONS THAT ARE  
16 SIGNIFICANT IN THAT RESPECT. NUMBER ONE, AT THE ATTORNEY  
17 GENERAL'S DIRECTION THE BUREAU OF PRISONS IS CONDUCTING A  
18 REVIEW IN AN ATTEMPT TO IDENTIFY INMATES WHO BECAUSE OF  
19 AGE OR UNDERLYING MEDICAL CONDITIONS OR OTHER THINGS ARE  
20 MORE SUSCEPTIBLE TO THE VIRUS AND PROVIDING FOR THEIR  
21 RELEASE EARLIER THAN MIGHT OTHERWISE HAVE BEEN THE CASE TO  
22 A HALFWAY HOUSE OR TO HOME INCARCERATION.

23 IN ADDITION, JUST TWO DAYS AGO THE ATTORNEY  
24 GENERAL ISSUED A MEMO TO UNITED STATES ATTORNEYS, AMONG  
25 OTHERS, THAT -- AND THIS IS MY PARAPHRASE -- DIRECTS THAT

1 CONSIDERATION BE GIVEN TO THE RISK, NOT ONLY ACTUAL RISK,  
2 BUT POTENTIAL RISK TO A DEFENDANT BASED UPON INCARCERATION  
3 WITHOUT BOND. I WON'T READ TOO MUCH INTO THE ATTORNEY  
4 GENERAL'S MEMO, BUT CERTAINLY THE ATTORNEY GENERAL  
5 INDICATES THAT THE RISK FROM COVID-19 SHOULD BE A FACTOR  
6 IN THE UNITED STATES ATTORNEY'S OFFICE ANALYSIS OF WHETHER  
7 TO RECOMMEND BOND OR IN RESPONDING TO AND LITIGATING  
8 MOTIONS FILED BY PREVIOUSLY DETAINED DEFENDANTS FOR BOND.

9 I HAVE TO ADMIT THAT THE ISSUE OF RELEASE FOR  
10 THIS DEFENDANT IS A CLOSE CALL HERE, BUT I WOULD ALSO NOTE  
11 THE BURDEN OF PROOF THAT'S ON THE GOVERNMENT IN THIS  
12 RESPECT. SO I AM INCLINED, ALTHOUGH I WANT TO THINK ABOUT  
13 IT JUST A LITTLE BIT AND DISCUSS IT WITH MY LAW CLERK, TO  
14 GRANT THE MOTION FOR RELEASE. THAT RELEASE, HOWEVER,  
15 WOULD BE SUBJECT TO SOME SIGNIFICANT CONDITIONS.

16 FIRST OF ALL, THE DEFENDANT WILL BE REQUIRED TO  
17 POST AN APPEARANCE BOND IN THE AMOUNT OF \$500,000, AT  
18 LEAST PARTIALLY SECURED BY A \$100,000 CASH DEPOSIT WITH  
19 THE COURT AND A DEED OF TRUST SECURING AT LEAST ONE OF THE  
20 PROPERTIES OWNED BY THE DEFENDANT AND HER HUSBAND EITHER  
21 IN WASHINGTON COUNTY, TENNESSEE OR IN ATLANTA, GEORGIA.

22 I -- THE PRETRIAL REPORT INDICATED A VALUE OF THE  
23 WASHINGTON COUNTY PROPERTY OF APPROXIMATELY \$250,000 AND  
24 OF THE ATLANTA PROPERTY OF APPROXIMATELY \$500,000. I  
25 WOULD NOTE THAT IN ORDER FOR THAT CONDITION TO BE MET,

1 DR. YOU'S HUSBAND WILL HAVE TO SIGN THE NECESSARY DOCU-  
2 MENTS; AND ALTHOUGH COUNSEL WILL HAVE TO CONFIRM THIS WITH  
3 THE CLERK'S OFFICE, I BELIEVE THAT WHAT ACTUALLY HAS TO BE  
4 DONE IS A DEED OF TRUST PREPARED AND SIGNED BY BOTH  
5 PARTIES IN FAVOR OF THE CLERK, I THINK THAT'S THE WAY  
6 THAT'S DONE.

7 THE CLERK: I BELIEVE IT IS, YOUR HONOR.

8 THE COURT: SO THAT WOULD BE THE FIRST  
9 CONDITION.

10 SECONDLY, THE DEFENDANT WILL BE REQUIRED TO  
11 RESIDE IN THE NORTHEASTERN DIVISION OF THE UNITED STATES  
12 DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE,  
13 PRESUMABLY IN WASHINGTON COUNTY OR GREENE COUNTY, DURING  
14 THE PERIOD OF THE BOND. SHE WILL BE SUBJECT TO HOME  
15 DETENTION DURING THAT PERIOD OF TIME WITH ELECTRONIC  
16 MONITORING. INITIALLY THE DEFENDANT WILL BE REQUIRED TO  
17 COMPLY WITH ALL CDC REQUIREMENTS, INCLUDING THE TWO WEEK  
18 QUARANTINE, AND I BELIEVE IT'S TWO WEEKS, QUARANTINE  
19 DURING WHICH TIME SHE WOULD BE SUBJECT TO 24 HOUR A DAY, 7  
20 DAY A WEEK DETENTION AT HOME. IN OTHER WORDS, SHE  
21 COULDN'T LEAVE HOME FOR THAT -- I BELIEVE IT'S A 14 DAY  
22 PERIOD. SOMEBODY NEEDS TO CONFIRM.

23 DID YOU CONFIRM IT WAS 14 DAYS?

24 PROBATION OFFICER: NO, YOUR HONOR, BUT I  
25 WILL.

1 THE COURT: SOMEBODY NEEDS TO CONFIRM THAT IT'S  
2 14 DAYS. WHATEVER THAT REQUIREMENT IS, SHE NEEDS TO BE  
3 UNDER QUARANTINE. AFTER THAT, SHE WILL BE PERMITTED TO  
4 LEAVE HER RESIDENCE FOR ONLY ONE OF THE FOLLOWING REASONS:  
5 NUMBER ONE, TO SEE A DOCTOR IF SHE NEEDS TO DO THAT;  
6 SECONDLY, TO VISIT A PHARMACY TO PICK UP A PRESCRIPTION;  
7 THIRD, TO GO TO THE GROCERY STORE; AND, FOURTH, TO MEET  
8 WITH HER LAWYERS AT WHATEVER LOCATION IS REQUIRED BY HER  
9 ATTORNEYS, EITHER AT ONE OF THEIR OFFICES OR POSSIBLY AT  
10 THE FBI'S REGIONAL OFFICE IN JOHNSON CITY.

11 LET ME GO BACK TO THE RESIDENCE REQUIREMENT.  
12 OBVIOUSLY, SHE MUST RESIDE AT A PLACE APPROVED BY THE  
13 UNITED STATES PROBATION OFFICE AS A SUITABLE RESIDENCE.  
14 AND GIVEN THE FACT THAT INTERNET ACCESS IS USUALLY WIRED  
15 INTO THESE APARTMENT COMPLEXES, SHE WILL SURRENDER AND NOT  
16 POSSESS ANY DEVICE ON WHICH SHE MIGHT ACCESS THE INTERNET,  
17 COMPUTER, CELL PHONE, I-PAD -- I JUST LEARNED RECENTLY  
18 THAT YOU CAN CONNECT TO THE INTERNET WITH AN X-BOX, I  
19 DIDN'T KNOW THAT -- BUT ANY DEVICE THAT'S CAPABLE OF  
20 CONNECTING TO THE INTERNET.

21 DURING THE PERIOD OF THE BOND -- OH, AND  
22 BECAUSE IT IS HOME DETENTION, THE LOCATION WILL HAVE TO  
23 HAVE A LANDLINE TELEPHONE. DURING THE PERIOD OF THE BOND,  
24 THE DEFENDANT WILL BE REQUIRED TO PLACE A CALL FROM THAT  
25 LANDLINE TO HER SUPERVISING UNITED STATES PROBATION

1 OFFICER AT LEAST TWICE DAILY. AND I'M TOLD THAT THE  
2 TECHNOLOGY ALLOWS THE PROBATION OFFICE TO CONFIRM THAT THE  
3 CALL, CALL WAS IN FACT MADE FROM THAT LANDLINE. IN  
4 ADDITION, THE PROBATION OFFICER IS AUTHORIZED TO MAKE  
5 RANDOM PHONE CALLS TO THE DEFENDANT TO CONFIRM THAT SHE IS  
6 PRESENT AT THAT LOCATION.

7 NOW, BECAUSE THE DEFENDANT DOES NOT HAVE A  
8 DRIVER'S LICENSE AND WILL NOT BE PERMITTED TO OBTAIN A  
9 DRIVER'S LICENSE, SHE WILL HAVE TO ARRANGE FOR ANY  
10 NECESSARY TRANSPORTATION.

11 DID I MISS ANYTHING?

12 PROBATION OFFICER: YOUR HONOR, WILL SHE BE  
13 REQUIRED TO PAY FOR HER ELECTRONIC MONITORING?

14 THE COURT: SHE WILL, THE ELECTRONIC MONITORING  
15 WILL BE AT HER EXPENSE.

16 PROBATION OFFICER: AND GIVEN THE CURRENT  
17 SITUATION WITH COVID-19 AND EVERYTHING, WE'RE NOT SURE  
18 WHEN WE WILL BE ABLE TO HOOK HER UP.

19 THE COURT: I'M NOT GOING TO PUT A TIME LIMIT  
20 ON THAT, I UNDERSTAND THAT THERE ARE SOME TIME CONSTRAINTS  
21 ON GETTING ALL THAT HOOKED UP.

22 PROBATION OFFICER: THANK YOU, YOUR HONOR.

23 THE COURT: BUT I WOULD LIKE IT HOOKED UP AS  
24 SOON AS POSSIBLE AFTER SHE IS RELEASED, OBVIOUSLY.

25 PROBATION OFFICER: YES, YOUR HONOR.

1           THE COURT: BEYOND THAT, SHE WILL BE SUBJECT TO  
2 THE USUAL CONDITIONS OF BOND.

3           IN ADDITION TO WHAT I'VE ALREADY SAID ABOUT  
4 CONTACT WITH THE PROBATION OFFICE, SHE WILL BE REQUIRED TO  
5 REPORT ON A REGULAR BASIS TO THE UNITED STATES PROBATION  
6 OFFICE AND TO COOPERATE FULLY WITH ALL PRETRIAL SERVICE  
7 OFFICERS OR THEIR DESIGNEES; AND SHE MUST REFRAIN FROM ANY  
8 VERBAL OR PHYSICAL ABUSE OF ANY PRETRIAL SERVICE OFFICER  
9 OR OTHER OFFICIAL IN THE PERFORMANCE OF HIS OR HER DUTIES.

10          THE DEFENDANT MUST REFRAIN FROM POSSESSING A  
11 FIREARM, AMMUNITION, A DESTRUCTIVE DEVICE OR ANY OTHER  
12 KIND OF DANGEROUS WEAPON.

13          AND THIS SAYS EXECUTE A BAIL BOND WITH SOLVENT  
14 SURETIES IN THE AMOUNT OF \$100,000. I INTEND FOR THERE TO  
15 BE A DEPOSIT WITH THE CLERK OF \$100,000, ALL RIGHT.

16          AND IF SHE HAS ANY PASSPORT IN HER POSSESSION,  
17 THAT MUST BE SURRENDERED TO THE UNITED STATES PROBATION  
18 OFFICE, AND SHE IS PROHIBITED FROM OBTAINING ANY NEW  
19 PASSPORT.

20          SHE MUST HAVE NO CONTACT WITH KNOWN CONVICTED  
21 FELONS, DRUG DEALERS, DRUG USERS, CODEFENDANTS OR ANY  
22 PERSON WHO VIOLATES THE LAW.

23          SHE MUST REPORT ANY CONTACT WITH LAW ENFORCE-  
24 MENT PERSONNEL, INCLUDING BUT NOT LIMITED TO ANY ARRESTS,  
25 QUESTIONING OR TRAFFIC STOP TO THE PRETRIAL OFFICER AS



1 SOON AS POSSIBLE.

2 AND, OBVIOUSLY, SHE MUST APPEAR AT ANY TIME  
3 THAT HER APPEARANCE IS REQUIRED IN CONNECTION WITH THIS  
4 CASE. SHE MUST REMAIN IN CONTACT ON A REGULAR BASIS WITH  
5 HER ATTORNEYS AND COOPERATE FULLY WITH HER ATTORNEYS.

6 AND UPON THE ENTRY OF THE COURT'S ORDER, I  
7 UNDERSTAND THIS BOND CAN ACTUALLY BE E-MAILED TO HER AT  
8 THE DETENTION FACILITY AND SHE CAN SIGN IT FROM THERE?

9 THE CLERK: YOUR HONOR --

10 THE COURT: IS THAT WHAT HAPPENS?

11 THE CLERK: -- WASHINGTON COUNTY DOES NOT ALLOW  
12 THAT, THE OTHER ONES DO, AND SO THIS NEEDS TO BE GIVEN TO  
13 HER COUNSEL AND THEN TAKEN TO HER, THAT'S MY UNDERSTANDING  
14 THAT WASHINGTON COUNTY DOES NOT ALLOW THAT.

15 THE COURT: MR. SHIPLEY, MR. JESSEE, DID YOU  
16 BOTH HEAR THAT? WASHINGTON COUNTY WON'T ALLOW IT TO BE  
17 SIGNED ELECTRONICALLY, AND THIS IS GOING TO REQUIRE THAT  
18 IT BE TAKEN TO HER AT THE JAIL TO BE SIGNED, WHICH IS -- I  
19 DIDN'T KNOW WASHINGTON COUNTY HAD DONE THAT, BUT THAT'S  
20 UNWISE, BUT APPARENTLY THE CONDITIONS THEY HAVE.

21 MR. SHIPLEY: JUDGE, I'LL TAKE CARE OF IT,  
22 ACCORDINGLY.

23 THE COURT: AND ONCE IT'S SIGNED BY THE  
24 DEFENDANT, THEN IT CAN BE SUBMITTED TO THE COURT, AND I  
25 WILL SIGN IT.

1           ALL RIGHT. DID I MISS ANY CONDITION THAT  
2 ANYBODY WANTED TO DISCUSS?

3           I THINK, AS MR. HARKER SAID, THAT DOES LARGELY  
4 TRACK THE CONDITIONS SUGGESTED BY THE GOVERNMENT.

5           MR. HARKER: I THINK IT DOES, YOUR HONOR.  
6 THANK YOU.

7           THE COURT: ALL RIGHT.

8           MR. HARKER: YOUR HONOR, IF I MAY?

9           THE COURT: YES, YOU MAY.

10          MR. HARKER: I UNDERSTAND THAT THE COURT HAS  
11 ONLY ISSUED A PRELIMINARY ORDER AT THIS TIME --

12          THE COURT: YES.

13          MR. HARKER: -- AND THAT IT WILL TAKE THE  
14 MATTER UNDER ADVISEMENT AND, AS YOUR HONOR SAID, DISCUSS  
15 IT WITH THE CLERK. IF THE COURT DOES ULTIMATELY ENTER  
16 THIS ORDER, I'VE BEEN INSTRUCTED TO MOVE THE COURT THAT  
17 THE COURT DELAY THE EXECUTION OF THAT ORDER FOR 72 HOURS  
18 SO THAT THE UNITED STATES CAN COMPLETE ITS CONSULTATION  
19 WITH THE SOLICITOR GENERAL'S OFFICE WHETHER OR NOT TO SEEK  
20 AN APPEAL.

21          THE COURT: I'LL TAKE THAT REQUEST UNDER  
22 ADVISEMENT AS WELL.

23          MR. HARKER: THANK YOU, YOUR HONOR.

24          THE COURT: I JUST WAS LOOKING AT A SIXTH  
25 CIRCUIT DOCKET SHEET EARLIER TODAY, AND THERE'S AN

1 EMERGENCY MOTION THAT'S BEEN PENDING BEFORE THE SIXTH  
2 CIRCUIT FOR ABOUT FOUR WEEKS THAT THEY HAVEN'T RULED ON,  
3 SO THE ODDS THAT YOU GET A QUICK RULING OUT OF THE SIXTH  
4 CIRCUIT ON ANYTHING ARE PRETTY SLIM, BUT CERTAINLY THE  
5 GOVERNMENT CAN DO WHATEVER IT DECIDES TO DO IN THAT  
6 RESPECT.

7 MR. HARKER: THANK YOU, YOUR HONOR.

8 THE COURT: ALL RIGHT. ANYTHING ELSE?

9 MR. HARKER: NO, YOUR HONOR.

10 MR. SHIPLEY: NOTHING FURTHER, YOUR HONOR.

11 THE COURT: ALL RIGHT. LET'S KEEP THIS CASE  
12 MOVING AND TRY TO GET THIS CASE TRIED IN JULY, AND THAT  
13 MAKES THE NECESSARY ARRANGEMENTS THAT NEED TO BE MADE WITH  
14 RESPECT TO THESE DEPOSITIONS OF CONSIDERABLE IMPORTANCE,  
15 AND SO I'LL LOOK FORWARD TO YOUR STATUS REPORT IN A WEEK  
16 ABOUT THE, ABOUT THE STATUS OF THAT.

17 MR. SHIPLEY: THANK YOU.

18 THE COURT: ALL RIGHT. THANK YOU ALL VERY  
19 MUCH. THAT WILL CONCLUDE THE COURT'S HEARING.

20 MR. HARKER: THANK YOU, YOUR HONOR.

21 THE DEFENDANT: THANK YOU, YOUR HONOR.

22 THE COURT: MR. OVERBEY, GOOD TO SEE YOU.

23 MR. OVERBEY: GOOD TO SEE YOU.

24 (PROCEEDINGS ARE CONCLUDED AT 3:12 P.M.)

25 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM

1 THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

2

3

4 KAREN J. BRADLEY/S  
SIGNATURE OF COURT REPORTER

04/10/2020  
DATE

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